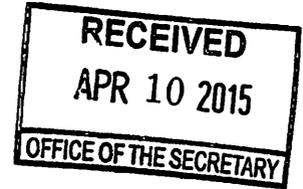


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UNITED STATES OF AMERICA  
Before the  
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING  
File No. 3-16339



----- :  
In the Matter of :

JOHN BRINER, ESQ., et al. :  
----- :

**DIVISION OF ENFORCEMENT'S OPPOSITION TO DE JOYA  
RESPONDENTS' MOTION FOR SUMMARY DISPOSITION OF SEC'S CLAIMS  
FOR VIOLATION OF SECTION 17(A) OF THE SECURITIES ACT OF 1933**

Jack Kaufman, Esq.  
Jason W. Sunshine, Esq.  
Jorge G. Tenreiro, Esq.  
Attorneys for Division of Enforcement  
Securities and Exchange Commission  
200 Vesey Street, Suite 400  
New York, N.Y. 10011  
212-336-0106  
kaufmanja@sec.gov

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The SEC Division of Enforcement (“Division”) respectfully submits this opposition to the motion of Respondents De Joya Griffith, LLC, Arthur De Joya, Jason Griffith, Chris Whetman, and Philip Zhang (collectively, the “De Joya Respondents”) for summary disposition of the Division’s claims against them for violating Section 17(a) of the Securities Act of 1933 (“Securities Act”), 15 U.S.C. § 77q (“Section 17(a”).

### **PRELIMINARY STATEMENT**

The Division charges the De Joya Respondents with violating Section 17(a) by providing audit reports for nine Form S-1 registration statements falsely stating that (1) the De Joya Respondents “conducted [their] audit in accordance with the standards of the Public Accounting Oversight Board (United States)”; and (2) the financial statements of the nine issuers presented their financial positions “in conformity with U.S. generally accepted accounting principles.” (OIP ¶ 180.) To the contrary, the De Joya Respondents knowingly or recklessly failed to comply with basic auditing standards, including by: (1) their gross failure to respond adequately to known and extreme risks of fraud – including respondents John Briner’s and Diane Dalmy’s reputation for securities fraud (and Briner’s related SEC suspension); and (2) respondents Zhang’s and Whetman’s failure to obtain audit evidence remotely adequate to audit the issuers. Indeed, the undisputed facts – far from supporting the De Joya Respondents – establish the Division’s claims against them.

In their motion, however, the De Joya Respondents misconstrue the elements of Section 17(a), and gloss over the strong scienter evidence against them. Regarding Section 17(a)(1), the De Joya Respondents erroneously assert that the Division must allege more than the false statements described above. The Commission’s recent *John P. Flannery* decision disposes of

that argument by expressly rejecting the De Joya Respondents' narrow construction of Section 17(a)(1).

Also regarding Section 17(a)(1), the De Joya Respondents erroneously claim that insufficient scienter evidence exists. To the contrary, the undisputed evidence – primarily the De Joya Respondents' own testimonial admissions – establishes that the De Joya Respondents knew, or at least recklessly disregarded, that their so-called “audits” were woefully inadequate and, thus, violated applicable auditing principles. The De Joya Respondents thus knew or recklessly disregarded that their audit report statements (quoted above) were false.

Regarding Section 17(a)(2) – which has no scienter requirement – the De Joya Respondents' sole contention is that they did not “obtain money or property” within the meaning of that provision. Respondents again are mistaken. The audit fees that the De Joya firm received in exchange for its false audit reports satisfy the “money or property” element of Section 17(a)(2), a conclusion supported both by *Flannery* and by the Supreme Court precedent that the De Joya Respondents cite.

Finally, regarding Section 17(a)(3) (also no scienter requirement), the De Joya Respondents again incorrectly contend that their alleged misstatements are not sufficient to state a claim. The Commission states in *Flannery* that where, as here, a respondent has engaged in *repeated* false conduct – including repeated false statements – he or she has violated Section 17(a)(3).

## **ARGUMENT**

### **I. Section 17(a)(1) Applies to the De Joya Respondents' False Statements**

The Division charges the De Joya Respondents with violating Section 17(a)(1) by knowingly or recklessly providing audit reports falsely stating (1) that they “conducted [their]

audit in accordance with the standards of the Public Accounting Oversight Board (United States)”; and (2) that the issuers’ financial statements presented their financial positions “in conformity with U.S. generally accepted accounting principles.” (OIP ¶ 180.) Section 17(a)(1) prohibits employing “any device, scheme, or artifice to defraud” in the offer or sale of securities. The De Joya Respondents first assert that Section 17(a)(1) thus requires the Division to allege conduct beyond a “mere misstatement” – e.g., that the Division must also satisfy the elements of Section 17(a)(2) (including that provision’s “money or property” element). The De Joya Respondents are mistaken.

The Commission in *John P. Flannery*, Exchange Act Release No. 73840, 2014 WL 7145625 (Dec. 15, 2014), squarely rejected precisely the argument the De Joya Respondents now raise, noting:

we read the language of Section 17(a)(1) to encompass all scienter-based, misstatement-related misconduct. . . . And, as explained above, a misstatement is undoubtedly a “device” or “artifice” to defraud. Thus, one who (with scienter) “makes” a material misstatement in the offer or sale of a security has violated Section 17(a)(1)—such conduct surely constitutes “employ[ing]” a “device, scheme, or artifice to defraud.” In our view, so too has any defendant who (with scienter) drafts or devises a misstatement or uses a misstatement made by others to defraud investors. In each case, the person has “employ[ed]” a “device” or “artifice to defraud.”

We thus reject any suggestion that because Section 17(a)(2) expressly prohibits certain negligent misstatements, that limits the reach of Section 17(a)(1) by excluding from its purview all intentional, misstatement-related conduct. To begin with, Section 17(a)(1) and (a)(2) address very different types of conduct—Section 17(a)(1) proscribes all scienter-based fraud, whereas Section 17(a)(2) prohibits negligent misrepresentations that deprive investors of money or property. And we have recognized that the subsections of Section 17(a) are “mutually supporting rather than mutually exclusive.” As the Supreme Court has expressly observed, “[e]ach succeeding prohibition [in Section 17(a)] is meant to cover additional kinds of illegalities—not to narrow the reach of the prior sections.”

We find that to read the provisions as mutually exclusive would inappropriately limit the Division’s ability to charge fraudulent conduct and thereby protect investors. It would also effectively immunize under the Securities Act

intentionally fraudulent misstatements (and misstatement-related conduct) that did not result in the defendant's obtaining money or property. We find such a result inconsistent with the text of the statute and the policy underlying it. Accordingly, we read Section 17(a)(1) to encompass the making, drafting, and devising of a misstatement, as well as other forms of conduct that contribute to a fraud.

*Flannery*, 2014 WL 7145625, \*17-18.

Thus, for its Section 17(a)(1) claim, the Division need only prove that the De Joya Respondents falsely stated that they conducted their audits in accordance with Public Accounting Oversight Board ("PCAOB") standards (and knew or recklessly disregarded that such statements were false), and the Court should reject Respondents' arguments to the contrary.

## **II. The De Joya Respondents Acted With Section 17(a)(1) Fraud Scienter**

The De Joya Respondents further assert that "no reasonable fact finder" could conclude that the De Joya Respondents acted with the requisite fraudulent intent under Section 17(a)(1). To the contrary, ample evidence – primarily Respondents' own admissions – supports a finding that the De Joya Respondents knew, or at least recklessly disregarded, the falsity of their audit reports. The De Joya Respondents' audits were deficient in a number of ways, but for the purpose of opposing the De Joya Respondents' motion, the Division focuses on two areas in particular: (1) the De Joya Respondents' gross failure to respond adequately to extreme and known risks of fraud related to the financial statements of the nine companies they were auditing (the "Issuers"); and (2) Respondents Zhang's and Whetman's (and the De Joya firm's) utter failure to obtain adequate evidence to audit the Issuers' cash and cash transactions.

The De Joya Respondents do not dispute the following facts: eight of the nine Issuer audit reports were filed in January and February of 2013; respondent Zhang was the engagement partner for those eight audits; respondent Griffith was quality review partner for six of those audits; respondent Arthur De Joya was quality review partner for two of them; and respondent

Whetman was engagement partner (with Griffith as quality review partner) for the ninth audit report, filed in July of 2012. (OIP Appendix A; De Joya Br., at 3.)

The De Joya Respondents also apparently do not dispute OIP paragraphs 53-57 and 59, detailing Briner's and Dalmy's separate intentional false statements in the Issuers' registration statements – i.e., that the Issuers were controlled by their officers (Briner controlled the Issuers);<sup>1</sup> that the Issuers purchased mineral claims (they did not); that each officer paid each Issuer \$30,000 for Issuer stock (they did not pay anything); that Dalmy investigated the Issuers (she did not); and that the Issuers were not “blank check” companies (they were). Although the Division does not charge the De Joya Respondents with the foregoing intentional false statements, their concurrent knowledge (or reckless disregard) of the substantial risk of Briner's and Dalmy's fraud is a central element of the Division's Section 17(a)(1) claim against them, as explained below.

**A. The De Joya Respondents Failed to Respond Adequately to Audit Risks**

Among the most significant fraud risks related to the Issuer audits were: (1) that Briner – who supplied the De Joya Respondents all financial information regarding the Issuers – previously had been sued by the SEC for his role in a pump-and-dump securities fraud scheme and was suspended from practicing as an attorney before the SEC; and (2) that Dalmy – who provided legal opinions for eight of the Issuers' Form S-1 registration statements – reputedly had been involved in similar fraudulent activities (including with Briner).

The De Joya Respondents' own testimony establishes that, by November 2012, they

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<sup>1</sup> To the extent the De Joya Respondents contest Briner's control, the Division attaches testimony excerpts of officers for six of the nine Issuers (Exs. 1-3), as well as testimony of Respondents Zhang and Whetman (Ex. 4, at 39-40, 42-43, 57, 68, 70-71, 86-89, 96, and 174; and Ex. 5, at 37-38, 44-47, and 49-50) – which make it plain that Briner controlled the Issuers (or, at the least, that the officers did not).

knew of the above substantial fraud risks related to the Issuers; that they should have resigned at that time from their audit engagements with the Issuers (prior to issuing eight of their audit reports); and that they should have withdrawn the previously-issued audit report.

Respondent Zhang testified that he learned of the above matters concerning Briner and Dalmy in November 2012 and brought them to the attention of the other De Joya Respondents – Whetman, De Joya, and Griffith – at that time. (Ex. 4, at 24-30, 101-09; OIP ¶¶ 113-119).<sup>2</sup> Zhang further testified that he met with both Griffith and De Joya to discuss how best to proceed regarding the audits, in light of these matters. According to Zhang, the three then collectively determined – without consulting an attorney – that Briner’s actions did not violate the Commission order suspending him and that, therefore, the De Joya firm could continue to conduct the Issuer audits. (Ex. 4, at 24-30, 108-10; OIP ¶ 119.) Respondent Whetman likewise testified that Zhang brought the Briner/Dalmy matter to his attention in November 2012, and that Whetman deferred to Zhang, De Joya, and Griffith regarding an appropriate audit response. (Ex. 5, at 184-89; OIP ¶¶ 118 & 121.) The other De Joya Respondents apparently do not contest Zhang’s and Whetman’s version of these events. Indeed the De Joya Respondents appear to concede these facts at page 13 of their motion (e.g., “the uncontroverted evidence is that Zhang and De Joya assessed the situation, reached the reasoned conclusion that Briner was not acting as a securities attorney before the SEC in violation of his suspension but was instead acting as a consultant on business and financial issues”).<sup>3</sup>

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<sup>2</sup> “Ex.” refers to the Division’s attached exhibits in support of its opposition to the De Joya Respondents’ motion for summary disposition.

<sup>3</sup> De Joya and Griffith testified that they do not to “recall” their 2012 discussions with Zhang regarding the Briner/Dalmy issue, but they do not deny that those discussions occurred. (Ex. 6, at 72-76; Ex. 7, at 52-53, 58-60.) Any such denial would lack credibility, particularly in light of Zhang’s detailed testimony regarding this matter.

The De Joya Respondents further concede that, after learning this information, they did nothing to change their formal audit procedures, admitting instead that Arthur De Joya merely instructed Zhang “to keep an eye on Briner” and to “let [De Joya] know if any issue comes up the [Briner].” (De Joya Br., at 4, 13.) Respondent Whetman likewise did nothing further regarding his prior (July 2012) audit, or regarding his continuing work on the same issuer’s interim financial statement (which Whetman was reviewing at the time). (OIP ¶ 121.)<sup>4</sup>

Critically, both Griffith and Arthur De Joya admit that the information the De Joya firm received in November 2012 should have caused it to enhance its formal audit procedures regarding the Issuers and, ultimately, to resign the Issuer audit engagements (without providing audit reports). Griffith testified that, had he been aware of the Briner/Dalmy integrity issue at the outset, he “likely wouldn’t have taken the engagement”; and that, had he learned about the issue during the audits, the De Joya firm would have needed to conduct further investigation regarding Briner’s relationship to the issuers (including why they were associating with Briner), and would “likely” have “increased the level of testing” regarding the audits. (Ex. 6, at 77-88.) Arthur De Joya similarly conceded that, “if I would have known that John Briner had any kind of history as far as pump-and-dump, absolutely, I would have ran away from him as quickly as I could”; that Dalmy’s fraud reputation was cause for “alarm”; and that it is “very disturbing” and a “mistake” that De Joya accepted audit engagements involving Dalmy. (Ex. 7, at 54-55, 60-64, 68-71.)

As noted above, the De Joya Respondents now concede that they knew in November 2012 of the fraud risks associated with Briner and Dalmy. Thus, the De Joya Respondents effectively concede that they should have enhanced their audit procedures and, ultimately, resigned the Issuer audit engagements at that time (and should have withdrawn their one

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<sup>4</sup> The De Joya Respondents did not document any of these discussions or decisions in any audit work-paper (or otherwise). (OIP ¶ 122; Ex. 8, at ¶ 16.)

previously-issued audit report). Their failure to do so, was by definition (as the De Joya Respondents knew or recklessly disregarded), a failure to comply with PCAOB auditing standards. It follows that Respondents either knew or recklessly disregarded that their nine unqualified audit reports were false – in other words, Respondents effectively concede that they violated Section 17(a)(1) by knowingly or recklessly issuing (or maintaining) the false Issuer audit reports.

The above evidence is more than sufficient to defeat the De Joya Respondents' present motion. In addition, however, the Division submits the Declaration of Sally Hoffman, the Division's audit expert. Ms. Hoffman's declaration explains why the De Joya Respondents' actions (and inaction) regarding fraud risk were grossly inadequate and, thus, why they violated specific applicable auditing principles. Consistent with the testimony of Respondents Arthur De Joya and Griffith, Ms. Hoffman states that, under the extremely risky circumstances known to them in November 2012, the De Joya Respondents should have resigned from the eight pending audit engagements, and should have withdrawn the report they previously had provided for the ninth issuer.

Ms. Hoffman's declaration provides significant detail regarding the De Joya Respondents' individual auditing violations (regarding the Briner/Dalmy integrity issue) and also summarizes those violations as follows:

De Joya and the De Joya Partners violated PCAOB standards by failing to respond adequately to various risks of fraud related to the audits, including John Briner's relationship to the Issuers; Briner's prior SEC fraud charges and reputation for fraud; Briner's suspension from practicing before the SEC; conflicting Issuer financial information that Briner supplied to De Joya; and Issuer attorney Diane Dalmy's reputation for fraud. In light of this information, De Joya and the De Joya Partners failed to plan appropriate additional procedures, and take appropriate action, necessary to ascertain the nature of the Issuers, their purpose, their funding, their operations, and their relationships to Briner. Had the De Joya Partners performed these procedures, they would have discovered – to

the extent it was not already apparent to them from the above-described information – even more extreme risk, if not knowledge, that the Issuers’ Officers were mere conduits for a fraudulent scheme orchestrated by Briner. The only appropriate auditor response to such fraud risk was to resign from the eight ongoing De Joya audit engagements, and to withdraw De Joya’s prior audit report for Issuer La Paz Mining Corp. (“La Paz”).

(Ex. 8, at ¶ 5.)<sup>5</sup>

The De Joya Respondents contend that their post-November 2012 actions complied with applicable auditing standards because they determined (without consulting an attorney) that Briner was not violating his SEC suspension Order by working on the Issuer audits. However, as Arthur De Joya and Griffith testified – and as Ms. Hoffman states – any such determination was ultimately irrelevant. The issue was not whether Briner was violating his suspension Order; rather, the issue was the high risk that his and Dalmy’s fraud reputation posed to the integrity of the audits they were conducting. Indeed, as Ms. Hoffman, Griffith, and De Joya all conclude, that risk was substantial enough to require the De Joya Respondents to resign from the audits or, at the least, to review all aspects of their audits and, ultimately – based on other information readily available to them – to resign from the audit engagements. Rather than follow these simple steps, the De Joya Respondents blithely continued their audits and, ultimately, issued unqualified audit reports, despite knowing (or recklessly disregarding) their plain violations of basic auditing standards.<sup>6</sup>

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<sup>5</sup> The Division respectfully refers the Court to Ms. Hoffman’s attached declaration (attached as Exhibit 8) for a more detailed analysis of these and other issues.

<sup>6</sup> Although not necessary to prove its Section 17(a)(1) claim, the Division also notes that the De Joya Respondents should not have determined by themselves whether Briner’s actions violated his SEC suspension order. As Ms. Hoffman states in her declaration, PCAOB standards require auditors to consult a qualified attorney regarding any significant legal issue. (Ex. 8, at ¶ 14, n.2.) As the De Joya Respondents knew, a significant question existed as to whether Briner was violating his SEC suspension by working on the Issuers’ Form S-1 registration statements. As they also knew, they were not qualified to make that determination themselves. Thus, for this

**B. Zhang and Whetman Obtained Inadequate Evidence to Audit Issuer Cash**

The second area of the De Joya Respondents' audit deficiencies that the Division addresses here concerns De Joya Respondents Zhang's and Whetman's abject failures to obtain evidence adequate to verify that the issuers held the cash they purported to hold and actually had engaged in certain reported cash transactions. Ms. Hoffman's declaration again provides a detailed analysis of these violations and summarizes them as follows:

De Joya (the firm), Zhang and Whetman violated PCAOB standards by failing to obtain sufficient reliable audit evidence regarding the assets, liabilities, and transactions reported in the Issuers' financial statements. The Issuers' financial statement consisted primarily of: (1) two purported assets – cash and mineral rights; and (2) two purported transactions – the Issuers' sale of stock to each Issuer's sole Officer; and each Issuer's acquisition of mineral rights. De Joya, Zhang and Whetman failed to obtain any reliable evidence regarding the existence of either the Issuers' purported assets or their purported transactions. Obtaining such audit evidence is basic to any audit, and De Joya's failure to do so rendered De Joya's audits no audits at all.

(Ex. 8, at ¶ 6.) Ms. Hoffman's declaration further states that Zhang's and Whetman's failure to obtain sufficient audit evidence was magnified by their admitted knowledge regarding Briner's reputation for engaging in fraudulent conduct. (Id., at ¶ 27.)

Respondents Zhang and Whetman contend that the steps they took to audit Issuer cash complied with applicable auditing standards. However, Ms. Hoffman states that, even accepting as true all of Zhang's and Whetman's contentions regarding the audit evidence that they purportedly relied upon, that evidence was woefully insufficient to support their unqualified audit reports. Thus, again, Zhang's and Whetman's so-called "audits" were so utterly inadequate as to amount to "no audit at all," and Zhang and Whetman either knew or recklessly disregarded this fact when they issued their false unqualified audit reports in July 2012 and January and

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additional reason, the De Joya Respondents plainly knew or recklessly disregarded that they did not conduct their audits in accordance with applicable auditing standards.

February 2013.

### **III. The Section 17(a)(2) “Money or Property” Requirement is Satisfied**

The De Joya Respondents further erroneously assert that the Division’s claims fail to satisfy the “money or property” requirement of Section 17(a)(2). Contrary to the De Joya Respondents’ argument, the De Joya Respondents’ admitted receipt of audit fees for their false audits is sufficient to satisfy this element of Section 17(a)(2).

To establish liability under Section 17(a)(2), the Division must show that the De Joya Respondents “obtain[ed] money or property by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements . . . not misleading.” The De Joya Respondents assert that their audit fees do not satisfy the “money or property” requirement because, they assert, such fees are not sufficiently connected to the De Joya Respondents’ false audit reports.

Respondents are mistaken. The Commission stated in *Flannery* that to satisfy Section 17(a)(2)’s “money or property” requirement a false statement “must be at least relevant to, if not the cause of, the transfer of money or property.” *Flannery*, 2014 WL 7145625, at \*25. In this case, the Issuers, through Briner, essentially were purchasing false audit reports from the De Joya Respondents. Indeed, the fees that the De Joya Respondents received were their motivation for repeatedly providing Briner with false audit reports. Thus, the audit fees were at least “relevant to” the false statements at issue and satisfy the “money or property” element of Section 17(a)(2).

The De Joya Respondents cite *Loughrin v. United States*, 134 S. Ct. 2384 (2014), but misconstrue its holding, which actually supports the Division’s Section 17(a)(2) claim. At issue in *Loughrin* was 18 U.S.C. § 1344(2), a provision of the federal bank fraud statute that “makes

criminal a knowing scheme to obtain property owned by, or in the custody of, a bank, ‘by means of false or fraudulent pretenses, representations, or promises.’” *Loughrin*, 134 S. Ct. at 2387. Defendant Loughrin faced Section 1344(2) charges for purchasing merchandise at a Target store with forged bank checks and then returning the merchandise for cash. *Id.* The issue was whether Section 1344(2) required the Government to prove “that a defendant . . . intended to defraud a bank.” The Court read Section 1344(a) broadly, holding that “the Government need not make that showing” (and, thus, affirmed Loughrin’s conviction). *Id.* In *dictum* – to counter Loughrin’s argument that such a reading would open the floodgates to Section 1344(2) prosecutions – the Supreme Court noted that Section 1344(2) requires some meaningful connection between the misrepresentation and the bank property obtained – *i.e.*, that “the connection between the two is something more than oblique, indirect, and incidental.” *Id.* at 2393. Here, the connection between the De Joya Respondents’ audit fees and their false statements is far more than “oblique, indirect, and incidental.” Briner set out to purchase false audit reports from the De Joya Respondents, who knew very well what Briner was up to (or, at the least, recklessly disregarded his intentions) and nonetheless expected to be paid for those reports. Thus, to the extent it is even applicable to Section 17(a)(2), the Division’s claim passes muster under *Loughrin*’s holding and reasoning.<sup>7</sup>

The Division further notes that the Commission in *Flannery* expressly declined to resolve whether the “money or property” requirement is satisfied where, as here, an entity directly receives the benefit at issue (as opposed to an individual respondent). However, *Flannery* notes

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<sup>7</sup> As noted above, *Loughrin* addresses the federal bank fraud statute, not the federal securities laws. The Commission in *Flannery* interpreted Section 17(a)(2) broadly – including the “money or property” element – and, regardless of *Loughrin*, that interpretation is entitled to deference. *See SEC v. Zanford*, 535 U.S. 813, 819-20 (2002) (SEC’s reasonable interpretation of Securities Exchange Act Section 10(b) “is entitled to deference”).

that a number of Courts that have held that payment to a defendant's "employer" is sufficient to satisfy this requirement as to the individual. *Id.* at \*25 n.130; *see also SEC v. Stoker*, 865 F. Supp. 2d 457, 463 (S.D.N.Y. 2012) (holding that, under Section 17(a)(2), it is sufficient to show either that defendant "personally obtained money indirectly from the fraud" or that he "obtained money or property for his employer while acting as its agent"); *SEC v. Mudd*, 885 F. Supp. 2d 654, 669-70 (S.D.N.Y. 2012) (adopting *Stoker* test); *SEC v. Delphi Corp.*, No. 06-14891, 2008 WL 4539519, at \*20 (E.D. Mich. Oct. 8, 2008) (holding that "Section 17(a)(2) does not require that" a defendant "obtain money or property for themselves"). Application of this rule is particularly appropriate in this case because the entity at issue (De Joya) was more closely related to the individual De Joya Respondents than a mere "employer." Rather, the individual Respondents were owners (partners) of the De Joya firm – which received the audit fees at issue – and, thus, directly benefitted from the firm's receipt of those fees. Therefore, whether the individual Respondents received the audit fees directly or through their firm should be irrelevant to the "money or property" element of the Division's Section 17(a)(2) claim.

#### **IV. The Division States a Claim Under Section 17(a)(3)**

Finally, the De Joya Respondents apparently assert – similarly to their first Section 17(a)(1) argument – that the Division cannot base a Section 17(a)(3) claim on the false statements in their audit reports. The De Joya Respondents once again are mistaken. The Commission explained in *Flannery* that "Section 17(a)(3) prohibits all 'transaction[s],' 'practice[s],' and 'course[s] of business' that 'operate[] or would operate as a fraud.'" *Flannery*, 2014 WL 7145625, at \*18. Thus, although Section 17(a)(3) does not necessarily apply to an "isolated" false statement, "one who *repeatedly* makes or drafts such misstatements over a period of time may well have engaged in a fraudulent 'practice' or 'course of business'" for purposes of

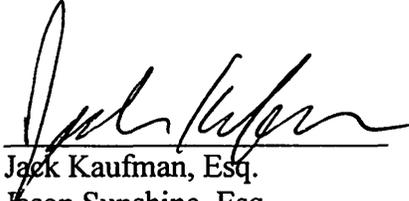
Section 17(a)(3). *Id.* Furthermore, “Section 17(a)(3) does not require that the defendant have engaged in conduct that is itself deceptive (or manipulative). Nor does Section 17(a)(3) require a showing of scienter.” *Id.* That is because “the language of [Section] 17(a)(3)] ... quite plainly focuses upon the effect of particular conduct on members of the investing public, rather than upon the culpability of the person responsible” and, thus, “Section 17(a)(3)’s prohibition could apply . . . where, as a result of a defendant’s negligent conduct, investors receive misleading information about the nature of an investment or an issuer’s financial condition.” *Id.*

The De Joya Respondents’ conduct fits squarely within the Commission’s reading of Section 17(a)(3). The De Joya Respondents repeatedly issued audit reports containing the false statement that they had “conducted [their] audit in accordance with the standards of the Public Accounting Oversight Board (United States).” Zhang was engagement partner on eight audit reports containing that false statement; Griffith was quality review partner on six; and Arthur De Joya was quality review partner on two. Although Whetman was engagement partner on only one Issuer audit, he was aware of the firm’s other Issuer audits and, thus, participated in the firm’s broader improper auditing “practices” and “course of business.” Such false audit statements plainly have the potential to affect the investing public, which relies upon audit reports in assessing the integrity of a particular issuer. Thus, the De Joya Respondents “engaged in a fraudulent ‘practice’ or ‘course of business’” for purposes of Section 17(a)(3).

**CONCLUSION**

For the foregoing reasons, the Division respectfully requests that the Court deny the De  
Joya Respondents' motion for summary disposition.

Respectfully submitted,



Jack Kaufman, Esq.  
Jason Sunshine, Esq.  
Jorge G. Tenreiro, Esq.  
Securities and Exchange Commission  
Division of Enforcement  
200 Vesey Street, Suite 400  
New York, N.Y. 10011  
212-336-0106  
kaufmanja@sec.gov

Dated: April 9, 2015

# **EXHIBIT**

**1**

Page 1

1 UNITED STATES SECURITIES AND EXCHANGE COMMISSION  
 2  
 3 In the Matter of: )  
 4 ) File No. NY-08922-A  
 5 LA PAZ MINING CORP. )  
 6  
 7 WITNESS: Stuart Carnie  
 8 PAGES: 1 through 78  
 9 PLACE: 801 Brickell Avenue, Suite 1800  
 10 Miami, Florida 33131  
 11 DATE: Monday, December 9, 2013  
 12  
 13 The above-entitled matter came on for hearing,  
 14 pursuant to notice, at 1:22 p.m.  
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 22  
 23  
 24 Diversified Reporting Services, Inc.  
 25 (202) 467-9200

Page 2

1 APPEARANCES:  
 2  
 3 On behalf of the Securities and Exchange Commission:  
 4 JASON W. SUNSHINE, ESQ.  
 5 LARA S. MEHRABAN, ESQ.  
 6 Securities and Exchange Commission  
 7 Division of Enforcement  
 8 Brookfield Place  
 9 200 Vesey Street, Suite 400  
 10 New York, NY 10281-1022  
 11 Telephone: (212) 336-1100  
 12  
 13  
 14 On behalf of the Witness:  
 15 STUART CARNIE, PRO SE  
 16  
 17  
 18  
 19  
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 21  
 22  
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1 PROCEEDINGS  
 2 MR. SUNSHINE: We're going on the record  
 3 at 1:22 p.m., December 9, 2013.  
 4 Can you raise your right hand. Do you  
 5 swear to tell the truth, the whole truth, and  
 6 nothing but the truth?  
 7 MR. CARNIE: Yes, I do.  
 8 Whereupon,  
 9 STUART CARNIE  
 10 was called as a witness and, having been first duly  
 11 sworn, was examined and testified as follows:  
 12 EXAMINATION  
 13 BY MR. SUNSHINE:  
 14 Q Please state and spell your name for the  
 15 record.  
 16 A Stuart Carnie, S-t-u-a-r-t C-a-r-n-i-e.  
 17 Q And as I mentioned, my name is Jason  
 18 Sunshine. To my right is Lara Mehraban. We are  
 19 officers of the Commission, for the purposes of this  
 20 proceeding. This is an investigation by the SEC in  
 21 the matter of La Paz Mining Corp., No. NY-8922, to  
 22 determine whether there have been violations of  
 23 certain provisions of the federal securities laws.  
 24 However, the facts developed in this  
 25 investigation might constitute violations of other

1 Resources. Then it changed ownership, and it's now  
 2 Double Crown Resources.  
 3 Q And how long have you been serving as  
 4 CEO/director for the companies you just mentioned?  
 5 A I would say it's probably been the last  
 6 four or five years I've been doing that.  
 7 Q Let's move forward. So just before we get  
 8 into it, I just want to confirm, though, that you  
 9 are the owner, CEO, director for the companies that  
 10 have been identified in the subpoena? So for  
 11 Gaspard Mining Corp., were you --  
 12 A I was for them. There are companies that  
 13 I don't recognize that were in the subpoena where we  
 14 had a list of --  
 15 Q A subpoena may be broader. Let me just go  
 16 through them. So the second one would be Coronation  
 17 Mining Corp.?  
 18 A Yes.  
 19 Q The third one?  
 20 A Goldstream, Gaspard, and Coronation, I  
 21 served as a director to those three companies.  
 22 Q That's what I was asking about, just those  
 23 three?  
 24 A Yes.  
 25 Q So as we talk about your experience with

1 that, I may refer to them as issuers together.  
 2 A Okay.  
 3 Q But just for ease and efficiency, if a  
 4 question doesn't pertain to all of them, then just  
 5 tell me and we tailor it for one or the other. Just  
 6 for convenience, I may refer to them together. So I  
 7 guess let's start with how did you come to be the  
 8 owner, the CEO, director of the issuers?  
 9 A I was retained by John Breiner. He asked  
 10 me if I would serve as the interim director for  
 11 those companies during the period of the S-1  
 12 registration statement. He hired me on a consulting  
 13 contract to execute certain documents with regard to  
 14 the registration statements of the issuers.  
 15 Q So Mr. Breiner came to you with the  
 16 companies or were they already mining companies at  
 17 that point?  
 18 A They had already been established as  
 19 Nevada corporations. And then he came to me and  
 20 said I've got these corporations that I want to  
 21 effect S-1 registrations on.  
 22 Q And what was your understanding of what  
 23 the business was of these entities, of the issuers?  
 24 A The issuers were developmental-stage  
 25 companies that had the wanting to be in the mining

1 business, and the company entities would be sold to  
 2 mining companies, resource companies.  
 3 Q So your understanding was that these were  
 4 developmental -- and correct me if I'm wrong, but  
 5 these were developmental-stage mining companies?  
 6 A Yes.  
 7 Q And the purpose was to ultimately sell  
 8 them to other mining companies?  
 9 A Basically, yes, that didn't have the  
 10 roadway into the public market. And that's why the  
 11 S-1 registrations were being, in effect, completed.  
 12 Q So the companies that they were going  
 13 to -- the purpose was to sell the issuers to, would  
 14 those have been non-public companies?  
 15 A Yes.  
 16 Q So that was something that you understood  
 17 at the time that you were asked to be the director  
 18 of?  
 19 A Yes.  
 20 Q Was there anything else that you  
 21 understood about these companies?  
 22 A Not really. We were just developing them  
 23 to effect -- sell them off.  
 24 Q Do you know why you were asked to be  
 25 director or CEO of three of the issuers as opposed

1 to one?  
 2 A It was residency requirements.  
 3 Apparently, I had the address in the United States.  
 4 I was here. It was just, you know, will you do  
 5 three companies with me. Yes, I will.  
 6 Q Did you know whether Mr. Breiner had  
 7 established other similar companies besides the ones  
 8 that you were consult for?  
 9 A I am aware that he has done that in the  
 10 past, yes.  
 11 Q Let's just talk about how you know Mr.  
 12 Breiner. Can you tell me how you came to meet Mr.  
 13 Breiner?  
 14 A I was working with Viva International, I  
 15 want to say, in about 2003. I had a gentleman that  
 16 was working with us. We were at the time a bulletin  
 17 board publicly-traded company. We were looking for  
 18 funding agreements. Mr. Breiner came to me in the  
 19 midst of that situation and was represented to me at  
 20 the time as a very good lawyer.  
 21 I've kind of known him ever since.  
 22 There's not a big personal relationship, but we've  
 23 known each other quite a while.  
 24 Q So since 2003?  
 25 A Yes, about then.

1 A Not to my recollection. I don't think she  
2 did any work on this, on these three issuers.

3 Q So let's just take a step back. Did you  
4 ever discuss John's issues, John Breiner's issues,  
5 with the SEC with John Breiner?

6 A I did. I asked him about that. He said  
7 that was just a little mixup and kind of brushed off  
8 the subject. So I thought, well, you know, he's not  
9 in jail, and I guess he didn't do anything that  
10 badly.

11 Q Did it concern you, though, that, you  
12 know, he was asking you to work with a few other  
13 entities, the issuers, after he had gotten in some  
14 kind of trouble with the SEC?

15 A I asked him if I was ever going to have an  
16 issue with this type of work or representing these  
17 companies. He said, "No. No. It's perfectly legal  
18 and above board."

19 Q So taking a step back, can you tell me  
20 what did you understand your responsibilities to be  
21 to the issuers?

22 A To be the operational address, if you  
23 will, review and sign the registration statements,  
24 review and sign the audits and, you know, necessary  
25 Qs and Ks. If the registration statement is

1 A I'm not sure if he knew about it. I know  
2 that his sister was working with Mining Consulting,  
3 and I was led to believe that that's where the  
4 information came from.

5 Q Who decided to -- each of the issuers  
6 purchased a mining claim from a company called  
7 Jervis Explorations. Do you know who decided to do  
8 business with Jervis Explorations?

9 A No, I don't. I would believe it to be  
10 John.

11 Q Who would have negotiated with Jervis?

12 A John.

13 Q Do you know who owns or controls Jervis  
14 Explorations?

15 A No.

16 Q So the S-1, as you understand it is --  
17 correct me if I'm wrong -- for the sale of stock?

18 A Yes.

19 Q Do you know who put the money in for the  
20 initial purchase of that stock?

21 A John.

22 Q Did you put any of your own money into buy  
23 stock?

24 A No.

25 Q Do you know how John came up with the

1 approved, review and sign the quarterlies and the  
2 yearlies and make sure that the AKs are up to date  
3 and everything is good.

4 Q Did you have any responsibility with  
5 developing the mining claims?

6 A No.

7 Q And who did you understand would handle  
8 that?

9 A John would handle that with whatever  
10 companies he was working up with in Canada.

11 Q Who would make decisions for the issuers,  
12 generally?

13 A I mean, I would be ultimately responsible  
14 for the decisions because I'm putting my name on it,  
15 but a lot of the input for those came from John  
16 Breiner.

17 Q I guess, for example, who decided to  
18 purchase the specific mineral claims that the  
19 issuers purchased; who would make that decision?

20 A That would be John.

21 Q Because you didn't know anything about  
22 the, you know, what the mining claims were in  
23 British Columbia, did you?

24 A No, I didn't.

25 Q Did Mr. Breiner know about that?

1 money for the stock purchase?

2 A No, I don't.

3 Q Do you know anything about the financing  
4 for the purchase of company stock?

5 A No, I don't.

6 Q Do you know how it was determined that  
7 each of the issuers purchased stock for \$30,000? Do  
8 you know how it was decided that the \$30,000 was how  
9 much was required to purchase the stock?

10 A No, I don't. Again, I believe that came  
11 from John.

12 Q And were you compensated in connection  
13 with your role with the issuers?

14 A Minimally.

15 Q How was that number determined?

16 A \$2,500 per issuer.

17 Q And who decided it was \$2,500?

18 A John did.

19 Q Do you know where that \$2,500 came from?

20 A Just from the MetroWest Law bank account  
21 is how it would show up on my wire transfer on my  
22 bank statement.

23 Q Did you think that it was the company  
24 paying you or did you understand it to be John

25 Breiner paying you?

1 A I understood it that it was the company  
 2 paying me, and he was doing it out of his law  
 3 account.  
 4 Q And by company, I mean issuers just, for  
 5 clarification.  
 6 A Right.  
 7 MS. MEHRABAN: You mentioned John  
 8 Breiner's sister. Who is that?  
 9 THE WITNESS: I can't remember her darned  
 10 name now. It will come to me the second I walk out  
 11 the door.  
 12 MS. MEHRABAN: You said she was somehow  
 13 involved in mining?  
 14 THE WITNESS: Yes. She went and finished  
 15 her degree in how to read mining charts and check  
 16 the soil and all that kind of stuff.  
 17 MS. MEHRABAN: Was she involved with a  
 18 particular company?  
 19 THE WITNESS: Not that I'm aware of, no.  
 20 BY MR. SUNSHINE:  
 21 Q Do you know who decided what auditors  
 22 would be hired to audit the financials for the  
 23 issuers?  
 24 A John usually picked out the vendors to the  
 25 company. And if I was okay with them, then we would

1 Q Yes.  
 2 A Yes.  
 3 Q Did the issuers have a bank account?  
 4 A I believe not.  
 5 Q Do you know where their funds were held?  
 6 A The minimal amounts of funds that were in  
 7 within the audits I believed to be in John's trust  
 8 account.  
 9 Q Did you have access to John's trust  
 10 account?  
 11 A No, I did not.  
 12 Q Did you ever receive statements for that  
 13 trust account?  
 14 A No, I did not.  
 15 Q Did John ever ask you if you wanted to see  
 16 statements from the trust account?  
 17 A No.  
 18 Q And you didn't ask either to see  
 19 statements from the trust account; right?  
 20 A No.  
 21 Q And do you understand that each of the  
 22 issuers all three had their funds in John's trust  
 23 account; is that what you understood?  
 24 A Yes.  
 25 Q Do you know who did the accounting for the

1 go forward.  
 2 Q So would he run it by you before he chose  
 3 them?  
 4 A Yes. He would say, "I would like to use  
 5 this company. Are we okay with that? I'll send you  
 6 over the agreement."  
 7 And if there was nothing strange in the  
 8 agreement or anything like that, I would sign off on  
 9 the agreement, and they would be the CPA firm or the  
 10 law firm.  
 11 Q Can you recall was there ever an instance  
 12 where you disagreed with a decision that John had  
 13 put to you?  
 14 A Not really, no.  
 15 Q And the same thing that you just described  
 16 would that also apply to the attorneys that would  
 17 supply the opinion letters?  
 18 A Yes, it would.  
 19 Q And how did the issuers pay their bills?  
 20 Do you know how that worked?  
 21 A I believe that they were supported by  
 22 John.  
 23 Q So John would pay the expenses of the  
 24 issuers; is that what you're saying?  
 25 A Yes, to like the auditors and the lawyers?

1 issuers?  
 2 A I'm not sure who did the actual accounting  
 3 for these three issuers. I'm at a loss for that  
 4 one.  
 5 Q Do you know who created the issuer's  
 6 financial statements that were used in the S-1s?  
 7 A It wasn't Moore & Associates.  
 8 Q I'm not talking about what accountant was  
 9 hired. It's more like on the issuer side who  
 10 handled -- who created the financials from the  
 11 issuers that they would then provide to the  
 12 accounts?  
 13 A That would be done in Vancouver at John's  
 14 office.  
 15 Q So John would create the financial  
 16 statements for the issuers?  
 17 A Out of his office, yes.  
 18 Q Was there any strategy for obtaining  
 19 short-term loans for the issuers?  
 20 A No.  
 21 Q Did you plan on loaning the issuers money  
 22 from your own funds?  
 23 A No.  
 24 Q Do you know if Mr. Breiner planned on  
 25 making any loans to the issuers?

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1 A I don't know.  
 2 Q Was there any plan to obtain any  
 3 additional equity investment in the issuers?  
 4 A Not that I had been active with.  
 5 Q Do you know of one that you weren't  
 6 involved with?  
 7 A No.  
 8 Q Do you know whose decision it was to sell  
 9 the company stock that was reflected in the S-1  
 10 statements?  
 11 A John's.  
 12 Q Do you know anything more about why the  
 13 stock was being sold?  
 14 A No.  
 15 Q Did you ever ask John why are we selling  
 16 stock?  
 17 A No.  
 18 Q Did you review the S-1 registration  
 19 statements before they were filed?  
 20 A Yes.  
 21 Q And what did your review include?  
 22 A Reading through it, making sure that  
 23 everything was above board, on the up and up, if you  
 24 would. Reviewing the financials, making sure that  
 25 there was accuracy there. And, you know, with

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1 regard to the legal matters, obviously I would seek  
 2 the advice of John for that, you know, is everything  
 3 in order and are we good to go.  
 4 He would say yes. And then if there were  
 5 comments issued, they would go directly to John. We  
 6 would address the comments and then resubmit, if  
 7 necessary.  
 8 Q And your review, would also include things  
 9 that were written about your role with respect to  
 10 the issuers?  
 11 A Yes.  
 12 Q Were there any instances where you felt  
 13 the description your role was not accurate?  
 14 A I don't think so, no.  
 15 Q Were any investors solicited for the sale  
 16 of the issuer stock?  
 17 A Not by me.  
 18 Q Do you know if John Breiner solicited any  
 19 investors?  
 20 A I have no knowledge of it.  
 21 Q Do you think any investors were solicited?  
 22 A I don't think so.  
 23 Q Why do you think no?  
 24 A What do you mean why do I think now?  
 25 Q I'm sorry. Why do you think the answer is

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1 that investors were not solicited?  
 2 A Purely because the goal was to have the  
 3 shell be acquired by another group that was into  
 4 actual physical mining, so I never was led to  
 5 believe that we're in the business of shoveling  
 6 spade and getting out there and cleaning dirt.  
 7 Q Understood. But did you think that Mr.  
 8 Breiner was going to sell the stock of the issuers  
 9 to other mining companies; is that what your  
 10 understanding was?  
 11 A Yes. Or it could have been any one of  
 12 various different lines of company, but the mining  
 13 was where I thought he had the contacts with the  
 14 people that were in the mining business.  
 15 Q So you understood that Mr. Breiner was  
 16 going to sell the stock to some other private  
 17 company, but you don't know which?  
 18 A Right.  
 19 Q But he was going to solicit some company  
 20 to sell the stock to; is that right?  
 21 A Yes. In effect, they would own all of the  
 22 shares of the issuer.  
 23 Q But are you aware of any activity that  
 24 John or someone else may have engaged in to actually  
 25 sell the shares?

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1 A No, I'm not aware. I'm not aware of who  
 2 they were trying to sell them to; let's put it that  
 3 way.  
 4 Q But your understanding was he or someone  
 5 that was helping him was attempting to sell the  
 6 shares to some other company?  
 7 A Right.  
 8 Q Do you know who would have received the  
 9 proceeds from the sale of that stock?  
 10 A To the best of my knowledge, it would have  
 11 been John. I don't know if he had a group that was  
 12 backing him in this activity or how that was  
 13 working. But to my knowledge, he owned all of or  
 14 owned all of the shares of the issuer kind of by  
 15 proxy. There would be some stuck in my name, and  
 16 that would go back to the company upon termination  
 17 of my consulting agreement.  
 18 Q We're going to move to some of the  
 19 documents that we have. So if you could take your  
 20 binder and turn to Tab No. 4.  
 21 MR. SUNSHINE: I'm asking the court  
 22 reporter to mark the document in Tab No. 4 as  
 23 Exhibit No. 141.  
 24 (SEC Exhibit No. 141 was  
 25 marked for identification.)

1 A Yes.  
 2 Q So what was your understanding of that  
 3 particular term?  
 4 A That there wasn't a quote, unquote, term.  
 5 I would potentially have to say on with the company  
 6 if it wasn't acquired or if the issuer didn't sell  
 7 the shares to a mining company, that I had to stay  
 8 on and be the director through Qs and Ks and just  
 9 maintain the company until such time as the shares  
 10 were sold.  
 11 Q Do you know what a reverse merger is?  
 12 A Yes.  
 13 Q What's your understanding of that?  
 14 A That's when a privately-held company  
 15 acquires almost all the shares of a bulletin board  
 16 company. And in order to effect the reverse merger,  
 17 you have to have your accounting policies and  
 18 procedures in place and legal counsel and so on and  
 19 so forth. But that is a vehicle that is used to get  
 20 a company from being a privately-held company to  
 21 being a publicly-traded company.  
 22 Q And I think we touched on this. But you  
 23 understood that the issuers that you were a director  
 24 of were going to be using reverse mergers down the  
 25 road; is that right?

1 A Yes.  
 2 Q And going to the paragraph just below  
 3 where it reads compensation, it says for all  
 4 services rendered by the consultant under this  
 5 agreement, the company shall pay the consultant a  
 6 one-time \$1,500.  
 7 Did you get paid \$1,500 for the Goldstream  
 8 agreement? Did you get paid that?  
 9 A Yes. Yes.  
 10 Q And what was your understanding of where  
 11 that money came from?  
 12 A My understanding was it came from John.  
 13 Q Meaning what exactly? Was it MetroWest  
 14 funds that he was paying you with?  
 15 A Yes, or his personal funds. You know, I  
 16 don't know how he sets up his personal financial  
 17 structure. But, you know, it was my understanding  
 18 that he was developing the company, and so he was  
 19 paying the bills.  
 20 Q So just to be clear, I think you said  
 21 earlier that it may have worked somehow through the  
 22 issuers. But your understanding is that it wasn't  
 23 the issuers paying you, but it was John Breiner  
 24 paying out of the funds, however he organized them;  
 25 is that right?

1 A Yes.  
 2 Q Because John was really setting up the  
 3 businesses and capitalizing it with the stock  
 4 purchase, among other things. Is that your  
 5 understanding?  
 6 A That's my understanding, yes.  
 7 Q Right below that, it reads, "In addition,  
 8 a consultant shall be issued 10 million shares of  
 9 common stock of the company. The company shall have  
 10 a right to repurchase the shares of the company for  
 11 a total purchase of \$8,500." What's your  
 12 understanding of that term?  
 13 A The understanding of that term is that  
 14 when John had, I guess, sold the company, so to  
 15 speak, or the mining companies wanted to purchase  
 16 the company because of its capability to raise  
 17 capital through the public markets, at that point in  
 18 time I would receive the \$8,500 bonus. And that  
 19 would be my termination with the company, so to  
 20 speak.  
 21 Q And were you issued the 10 million shares  
 22 of common stock for, this would be, Goldstream?  
 23 A I never saw the certificates, but I  
 24 believe we withdrew Goldstream. No, I don't think  
 25 we did.

1 Q Let's take it at the time that you signed  
 2 the agreement?  
 3 A Oh, at the time I signed, no, I didn't get  
 4 the physical stock certificate, no.  
 5 Q But did you believe you were issued the  
 6 shares at the time you signed the agreement?  
 7 A I do believe I was, yes.  
 8 MR. SUNSHINE: If we can turn to Tab No.  
 9 7, I'm asking the court reporter to mark this as  
 10 Exhibit No. 143.  
 11 (SEC Exhibit No. 143 was  
 12 marked for identification.)  
 13 BY MR. SUNSHINE:  
 14 Q Exhibit No. 143 is subscription agreement,  
 15 November 30, 2011 between Goldstream Mining and  
 16 Stuart Carnie. Do you recognize this document?  
 17 A I do.  
 18 Q And turning to the last page of Exhibit  
 19 No. 143 under acceptance, is that your signature?  
 20 A Under acceptance, are you talking about  
 21 5615?  
 22 Q Yes.  
 23 A Yes, that is my signature.  
 24 Q And then turn to the page before that  
 25 under 5614. At the bottom of the page, there is

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1 Exhibit No. 148.  
2 (SEC Exhibit No. 148 was  
3 marked for identification.)  
4 BY MR. SUNSHINE:  
5 Q This is a document from De Joya Griffith  
6 to Stuart Carnie from Gaspard Mining. Mr. Carnie,  
7 do you recognize this document?  
8 A Yes, I do.  
9 Q Turning to Bates 127 and 128 at the bottom  
10 of the page, it says signature below the De Joya  
11 Griffith signature. Is that your signature?  
12 A Yes.  
13 Q And what do you understand about this  
14 document?  
15 A That we were retaining the services of De  
16 Joya Griffith for the purpose of representation of  
17 the audits to the Securities and Exchange  
18 Commission.  
19 Q And did you ever speak with anybody from  
20 De Joya Griffith about that engagement that you just  
21 described?  
22 A No, I didn't.  
23 Q So you don't recall anybody from De Joya  
24 Griffith staff contacting you by phone?  
25 A No, they didn't.

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1 Q Or by e-mail?  
2 A No. The e-mail would have gone up to John  
3 and then sent to me.  
4 Q So let's explore that. So how would you  
5 get questions from the auditor; do they get filtered  
6 through John Breiner?  
7 A If there were questions and issues that  
8 needed to be addressed, yes, they would have  
9 contacted me directly possibly or gone through John.  
10 Q But you don't recall being contacted  
11 directly by De Joya Griffith?  
12 A No, I do not.  
13 MR. SUNSHINE: If you can turn to Tab No.  
14 12, I ask the court reporter to mark Tab No. 12 as  
15 Exhibit No. 149.  
16 (SEC Exhibit No. 149 was  
17 marked for identification.)  
18 BY MR. SUNSHINE:  
19 Q Exhibit No. 149 says standard form to  
20 confirm account. Do you recognize this document?  
21 A Yes.  
22 Q And where it says customers authorize  
23 signature, in the middle of the page, is that your  
24 signature?  
25 A Yes, it is.

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1 Q And the signature below that where it says  
2 financial institution authorized signature, do you  
3 know whose signature that is?  
4 A It looks like that might be John's.  
5 Q And what did you understand this document  
6 to be?  
7 A Well, I have seen the document. It's  
8 probably one of those could you sign this because  
9 need to do something. I am not sure exactly what  
10 this does.  
11 Q So at the time this was signed, it would  
12 have been presented to you by Mr. Breiner?  
13 A Yes.  
14 Q Is that right?  
15 A Yes. Yes.  
16 Q And he would have asked could you sign  
17 this in connection with your role at the issuer; is  
18 that right?  
19 A Yes.  
20 Q And this refers to confirming account. I  
21 think we spoke about this earlier. You said that  
22 Mr. Breiner had trust account for the issuers?  
23 A I believe so, yes.  
24 Q But you didn't have any access to that  
25 trust account; correct?

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1 A No.  
2 Q And Mr. Breiner had access to the  
3 trust account as far as you understand; is that  
4 correct?  
5 A Yes.  
6 Q So would he need your authorization to  
7 utilize his trust account for the issuers?  
8 A Yes.  
9 Q He did need your authorization?  
10 A As I understood it, yes.  
11 Q Did he ever ask you for authorization?  
12 A No.  
13 Q I guess for the other transactions, for,  
14 let's say, the property purchase transaction, did  
15 Mr. Breiner ask for your authorization for the  
16 purchase of the mineral claim for the issuers?  
17 A No, he didn't.  
18 Q Did he ever ask for your authorization for  
19 the purpose of the company stock for \$30,000?  
20 A No.  
21 Q Did he ever ask your authorization for the  
22 payment of the filing fees for the S-1 registration  
23 statement?  
24 A No. Things like that, he would just do  
25 automatically. He didn't need authorization

1 specifically. Just as long as he wasn't doing  
 2 anything illegal, I put a lot of trust in John  
 3 because he was what I thought was a very good  
 4 lawyer.  
 5 Q And would the same be true for paying the  
 6 auditors?  
 7 A Yes.  
 8 Q In the middle line that reads account  
 9 name, account number, interest rate, balance, where  
 10 it says under balance \$18,825 do you have any  
 11 understanding of what that amount refers to?  
 12 A I would think it's one document. It's a  
 13 balance. I don't know what was there before or  
 14 subsequently after and if this is actually an  
 15 outgoing wire transfer to confirm the balance.  
 16 Q Just sitting here today, just what do you  
 17 think it is, if you know at all?  
 18 A I would have to say I don't know because  
 19 it's better to not know than to guess.  
 20 Q Fair enough. If you can turn to tab --  
 21 sorry?  
 22 A Without pleading stupidity.  
 23 Q Turning to Tab No. 13, I'm asking the  
 24 court reporter to mark Tab No. 13 as Exhibit  
 25 No. 150.

1 Exhibit No. 151. On the top it says M & K CPAS  
 2 dated April 23, 2012.  
 3 (SEC Exhibit No. 151 was  
 4 marked for identification.)  
 5 BY MR. SUNSHINE:  
 6 Q Have you ever seen this document?  
 7 A I have, yes.  
 8 Q And Page No. 5561, the last page at the  
 9 bottom says your name. There is a very light  
 10 signature. Do you believe that that's your  
 11 signature?  
 12 A I can't really tell. It's so light. But  
 13 I do remember signing the retainer letter for M & K  
 14 CPAS.  
 15 Q Have you ever spoken to any auditor from  
 16 M & K CPAS?  
 17 A No.  
 18 Q No M & K CPAS staff contacted you?  
 19 A No.  
 20 Q By phone or by e-mail?  
 21 A No, not directly.  
 22 Q So all communication, would that have  
 23 first gone through John Breiner at MetroWest and  
 24 then to you?  
 25 A Yes.

1 (SEC Exhibit No. 150 was  
 2 marked for identification.)  
 3 BY MR. SUNSHINE:  
 4 Q On the top it says Gaspard Mining, Inc.  
 5 SAS-99 questionnaire answered by Stuart Carnie,  
 6 December 6, 2012. Do you recognize this document?  
 7 A I do.  
 8 Q Did you fill this document out?  
 9 A I'm not sure if Sandy filled it out while  
 10 we were both going through it because -- yeah.  
 11 Typically, with something like this, Sandy would  
 12 just read it off as we go through it together, and  
 13 she would be inputting that into the computer, my  
 14 responses.  
 15 Q And just looking down the list of  
 16 questions where it says after each question, there  
 17 is a yes and a no. The nos are shaded. Do you  
 18 believe that the nos were the answers to all these  
 19 questions?  
 20 A Yes, I do.  
 21 Q And did you ever speak to an auditor about  
 22 this document?  
 23 A No, I didn't.  
 24 MR. SUNSHINE: If you can turn to Tab No.  
 25 14, I'm asking the court reporter to mark this as

1 Q Actually, I want to take one step back and  
 2 turn back to Exhibit No. 150, so that's on Tab No.  
 3 13. The document we were just talking about for  
 4 Exhibit No. 150, did you receive this directly from  
 5 De Joya Griffith or did you receive this through  
 6 John Breiner?  
 7 A Which one, the SAS 99 questionnaire?  
 8 Q Yes, that one.  
 9 A That would have come through John.  
 10 Q Turning back to Exhibit No. 151, you  
 11 didn't speak to any auditor or staff from M & K  
 12 CPAS; correct?  
 13 A Correct.  
 14 MR. SUNSHINE: Turning to Tab No. 15, I'm  
 15 asking the court reporter to mark this document as  
 16 Exhibit No. 152.  
 17 (SEC Exhibit No. 152 was  
 18 marked for identification.)  
 19 BY MR. SUNSHINE:  
 20 Q This is related party worksheet May 31,  
 21 2012. At the bottom it says Stuart Carnie and a  
 22 signature. Is that your signature?  
 23 A Yes, it is.  
 24 Q Do you remember getting this document in  
 25 the course of your term with the issuers?

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1 A I'm sure I did because I signed it.  
2 Q Did you ever speak to any auditor about  
3 this document?  
4 A No.  
5 Q Was this document sent to you directly  
6 from M & K CPAS or did you get it through John  
7 Breiner?  
8 A Through John Breiner.  
9 Q Do you know what this document is in  
10 reference to?  
11 A I'm kind of looking here. I'm not really  
12 understanding, but --  
13 Q Do you know why John Breiner hired two  
14 different auditor firms?  
15 A No, I don't.  
16 Q Have you ever had any discussions with  
17 John Breiner about any of the auditors?  
18 A No.  
19 Q Do you know who he knows at each of these  
20 auditors?  
21 A I don't know who he knows.  
22 Q Did he ever mention to you an Arthur De  
23 Joya?  
24 A No.  
25 Q Did he ever mention to you an Eric Leon?

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1 A No.  
2 Q Did he ever mention to you Marlene  
3 Hutchinson?  
4 A No.  
5 Q Did he ever mention to you Casey Kenshin?  
6 A No.  
7 Q Did he ever mention to you Philip Zang?  
8 A No.  
9 Q Have you ever heard of any of those names  
10 before outside of Mr. Breiner?  
11 A No.  
12 MR. SUNSHINE: We're going to take a  
13 ten-minute break. We're going off the record at  
14 2:38 p.m., December 9, 2013.  
15 (A brief recess was taken.)  
16 MR. SUNSHINE: We're on the record at  
17 2:53 p.m., December 9, 2013.  
18 BY MR. SUNSHINE:  
19 Q Mr. Carnie, while we were taking a break,  
20 we did not have any substantive discussion about  
21 your testimony today; correct?  
22 A That's correct.  
23 Q If you can, turn to Tab No. 7 which has  
24 been marked as Exhibit No. 143. When we talked  
25 about this exhibit earlier, I believe you testified

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1 that it does concern you that you had signed this  
2 document knowing that Mr. Breiner had paid the  
3 \$30,000 for the stock.  
4 And you said that there was some kind of  
5 issue or you think there was an issue. I was  
6 wondering if you could describe what that issue is?  
7 A Well, I don't know that it is an issue or  
8 not. I mean, the agreement seems to be a valid  
9 agreement. I mean, I don't have an issue, per se,  
10 with regard to the document.  
11 Q You understand that it reflects that you  
12 were buying the shares in the company for \$30,000;  
13 correct?  
14 A Yes, it does reflect that.  
15 Q And you also testified that you did not  
16 pay \$30,000 for the stock?  
17 A No.  
18 Q Does that contradiction or discrepancy  
19 concern you?  
20 A It doesn't really concern me. I mean, I  
21 don't know where John got the \$30,000 from, and  
22 maybe that is a concern to you guys. But, you know,  
23 in so much as he said I'll take care of the  
24 financial responsibilities to the company and so on  
25 and so forth, that doesn't really concern me at all.

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1 Q But you understood that the stock was  
2 issued to you; correct?  
3 A Yes, I do. I never got the stock or the  
4 certificates.  
5 Q But you believe that you own that stock  
6 that's reflected in Exhibit No. 143; correct?  
7 A Right.  
8 Q Did you understand that that means that  
9 you are an owner of the company?  
10 A Yes.  
11 Q Did you understand that there were no  
12 other employees in the issuers except for yourself?  
13 A Yes, I do.  
14 Q You testified earlier that Mr. Breiner  
15 made the decisions for the company and that you knew  
16 that Mr. Breiner had issues with the SEC. Did you  
17 ever come to believe at any point that perhaps Mr.  
18 Breiner was using you to get around the SEC  
19 sanctions against him?  
20 A No, I really wasn't because I had asked  
21 him a couple of times, "Is everything okay. Are we  
22 allowed to do this?"  
23 "Oh, yeah. We're fine. We're fine."  
24 I wasn't aware that he wasn't allowed or  
25 had been sanctioned to the level that he was. It

1 had just been, you know, everything I heard was he  
2 got in a little trouble, and the Commission gave him  
3 a slap on the wrist and everything was okay is what  
4 I was led to believe.

5 Q And who led you to believe that?

6 A John obviously principally, he led me to  
7 believe that. He said the reason he wasn't doing  
8 this himself was he needed somebody that was based  
9 in the U.S. And so that's why it had to be me, and  
10 it was an opportunity for me to make some money.

11 I said that's fine. Again, we kind of  
12 brushed over are you good with the SEC and we're  
13 fine with this. He said everything was fine and  
14 nobody is doing anything wrong.

15 Q So why did you trust him?

16 A I'd just known him for so many years. I  
17 just trusted the guy. We had nice conversations  
18 when we'd chat socially. I kind of believed him.  
19 Sometimes you do that.

20 Q Did you with respect to John's role to the  
21 company, did you believe that -- who was the  
22 company's lawyer, let me put it that way?

23 A Well, the corporate counsel, I wouldn't  
24 refer to him as the company lawyer. But John was  
25 just, you know, the lawyer who would read the

1 counsel. I mean, there's so many words that lead  
2 everybody to believe everybody's a lawyer. But as a  
3 corporation, I'm of the understanding that you don't  
4 have to be a practicing attorney to be corporate  
5 counsel because you're not representing -- you don't  
6 have your shingle out there saying hey I'm a lawyer,  
7 come hire me. Much like you have one client, the  
8 SEC. So I see it as a little different than maybe  
9 you guys do.

10 Q Well, I'm just interested in knowing how  
11 you understand it. I'm trying to understand how did  
12 you view John Breiner knowing that he's a lawyer,  
13 but he's also doing non-lawyer things at the same  
14 time?

15 A Right.

16 Q With respect to the company. So I want to  
17 know how you understood Mr. Breiner?

18 A A business consultant is probably the best  
19 way to describe it.

20 Q You mentioned when we first started that  
21 you had served as director CEO of other companies.  
22 And what I would like to know is do you know what  
23 your compensation structure was like for those other  
24 companies for which you were CEO?

25 A It was very similar to the contract that

1 contracts and the day-to-day stuff.

2 Q And so did you believe that John was the  
3 lawyer for the company?

4 A With regard to internal matters, yes.

5 Q And let's just turn back to Exhibit No.

6 141, which is under Tab No. 4. On the second Page  
7 No. 6948 where it states Fred Bauman under copies of  
8 all communications to, what role did you think Mr.  
9 Bauman was playing?

10 A I thought Mr. Bauman was the attorney who  
11 would handle all matters with regard to the SEC.

12 Q Well, all matters, meaning you understood  
13 Mr. Bauman was an attorney; correct?

14 A Yes, I'm pretty sure Mr. Bauman is an  
15 attorney.

16 Q But Mr. Breiner, you didn't see him as  
17 counsel to the company; is that right?

18 A No, not as SEC counsel.

19 Q How would you characterize Mr. Breiner, is  
20 it more as a business consultant; is that an  
21 accurate description?

22 A Yes, you could say that.

23 Q Well, what would you say? I don't want to  
24 put words in your mouth.

25 A Well, business consultant, corporate

1 we have with the three issuers that we're  
2 discussing.

3 Q And that is you would get a payment upon  
4 signing, and then would it also include some kind of  
5 additional bonus upon the company engaging in a  
6 reverse merger?

7 A Yes.

8 Q And on average for each company, how much  
9 would you get upon signing?

10 A \$1,500.

11 Q And how much you would get upon the  
12 company being engaging in a reverse merger?

13 A A lot of times, they would come with an  
14 offer of employment for me or something like that.  
15 Unfortunately, I never really got paid on the back  
16 end on any of the companies that we're talking  
17 about.

18 Q So for the companies that you are the CEO  
19 of, you got the front end payment upon signing, but  
20 you don't think you got the bonus payment upon  
21 reverse merger?

22 A Right.

23 Q And why is that?

24 A I think in a lot of cases, companies  
25 become unsuccessful because they're thinking --

1 section that talks about related party transactions.  
 2 The paragraph reads, "As of the date of this  
 3 statement, the company has entered into an agreement  
 4 whereby they sold 10 million shares to its founder  
 5 for a total proceeds of \$30,000. Outside of the  
 6 above-noted transaction, there are no and have not  
 7 been since its inception any other material  
 8 agreements or proposed transactions whether direct  
 9 or indirect with any of the following."

10 And there's a list. And the last one  
 11 reads any promoters. So my question to you is  
 12 there's no -- I guess let me put it this way: Mr.  
 13 Breiner clearly provided services to the issuers in  
 14 creating the documents and doing the accounting, as  
 15 we've discussed, but there is no agreement  
 16 between -- there is no transaction list in here  
 17 between John Breiner and the issuers. Do you know  
 18 why John Breiner's role is not disclosed?

19 A No, I don't.

20 Q Do you think that it should have been?

21 A I really don't know.

22 Q Turn to 6956.

23 A Yes.

24 Q The second set of all caps reads, "We are  
 25 controlled by Mr. Stuart Carnie, our sole executive

1 officer and director. And as such, you may have no  
 2 effective voice in our management."

3 The first set of all caps after that  
 4 sentence reads, "We are solely governed by Mr.  
 5 Stuart Carnie, our sole executive office and  
 6 director. And as such, there may be significant  
 7 risk to the company of a conflict of interest."

8 So my question to you is in light of those  
 9 statements, you testified that Mr. Breiner made the  
 10 decisions for the issuers, even if by proxy, that

11 Mr. Breiner had purchased the stock and owned it by  
 12 proxy. Do you see these statements as inconsistent  
 13 with Mr. Breiner's role with the issuers?

14 A In hindsight, yes, maybe I do.

15 Q Well, sitting here today, you say it does  
 16 seem inconsistent?

17 A Yes.

18 Q And at the time that you approved the S-1  
 19 registration statement, why did you not focus on  
 20 those statements? And why is it that you allowed  
 21 that to be in there?

22 A I can't answer why I did that, so to  
 23 speak. But again, I'd been advised that what we're  
 24 doing is okay. There's no issues here that the S-1  
 25 statement was reviewed and written by company

1 counsel. I had reviewed it, so I didn't see it as  
 2 inconsistent or wrong up until, you know, you start  
 3 taking it piece by piece and saying do you see that  
 4 that's wrong and do you see that that's wrong.

5 I see the inconsistencies, and I guess we  
 6 just need to go through them and address them one by  
 7 one. But, yeah, it's in there and I signed off on  
 8 it, so maybe I was given bad advice.

9 Q Why do you think that John Breiner is now  
 10 in some way disclosed as -- why do you think John  
 11 Breiner's role with the issuers was not put into  
 12 this S-1 statement?

13 A I don't know.

14 Q Did he ever discuss that with you?

15 A No.

16 MS. MEHRABAN: You said that it was your  
 17 understanding that Mr. Bauman was the SEC counsel to  
 18 the company; is that correct?

19 THE WITNESS: Yes.

20 MS. MEHRABAN: Did you ever discuss with  
 21 Mr. Bauman the S-1 registration statement or any  
 22 statements in it?

23 THE WITNESS: No, I did not.

24 BY MR. SUNSHINE:

25 Q Turning to Page no. 6993, the second

1 paragraph after where it says going concern reads,  
 2 "Continuation of the company as a going concern is  
 3 dependant upon obtaining additional working capital,  
 4 and the management of the company has developed a  
 5 strategy which it believes will accomplish this  
 6 directive through short-term loans from an officer  
 7 director and additional equity investments which  
 8 will enable the company to continue operations for  
 9 the coming year."

10 Earlier you testified that you did not  
 11 have any plans to loan the company money or that  
 12 there was any plan for short-term loans and/or that  
 13 there was no additional equity investments that you  
 14 were aware of. In light of that, do you see, is this  
 15 inconsistent to you that it's saying that there were  
 16 those plans by management?

17 A The issue with a company is, and  
 18 unfortunately with a going concern company,  
 19 decisions are made on almost a daily basis. Today  
 20 we're going to move forward in this direction, and  
 21 the business climate will cause something to make  
 22 you change your direction.

23 So when it says in an S-1 statement that  
 24 we don't -- you know, we're going to need that  
 25 capital, after the statement is made, the business

# **EXHIBIT**

**2**

Page 1

1 UNITED STATES SECURITIES AND EXCHANGE COMMISSION  
2  
3 In the Matter of: )  
4 ) File No. NY-08922-A  
5 LA PAZ MINING CORP. )  
6  
7 WITNESS: Charles Irizarry  
8 PAGES: 1 through 105  
9 PLACE: Securities and Exchange Commission  
10 15 W. South Temple Street, Suite 1800  
11 Salt Lake City, UT 84101  
12 DATE: Tuesday, December 10, 2013  
13  
14 The above-entitled matter came on for hearing,  
15 pursuant to notice, at 1:09 p.m.  
16  
17  
18  
19  
20  
21  
22  
23  
24 Diversified Reporting Services, Inc.  
25 (202) 467-9200

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1 APPEARANCES:  
2  
3 On behalf of the Securities and Exchange Commission:  
4 JASON W. SUNSHINE, ESQ.  
5 LARA S. MEHRABAN, ESQ.  
6 Securities and Exchange Commission  
7 Division of Enforcement  
8 Brookfield Place  
9 200 Vesey Street, Suite 400  
10 New York, NY 10281-1022  
11 (212) 336-1100  
12  
13  
14 On behalf of the Witness:  
15 JOHN W. ANDERSON  
16 Anderson Hinkins  
17 881 West Baxter Drive  
18 South Jordan, UT 84095  
19 (801) 930-0290  
20  
21  
22  
23  
24  
25

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## 1 PROCEEDINGS

2 MR. SUNSHINE: Going on the record at  
3 1:09 p.m. Eastern Standard Time, December 10th,  
4 2013.

5 Can you raise your right hand. Do you  
6 swear or affirm to tell the truth, the whole truth  
7 and nothing but the truth.

8 MR. IRIZARRY: I do.  
9 Whereupon,

10 CHARLES IRIZARRY  
11 was called as a witness and, having been first duly  
12 sworn, was examined and testified as follows:

## 13 EXAMINATION

14 BY MR. SUNSHINE:

15 Q Please state and spell your name for the  
16 record.

17 A Charles Irizarry, C-h-a-r-l-e-s, the last  
18 name is I-r-i-z-a-r-r-y.

19 Q I'm Jason Sunshine. To my right is Lara  
20 Mehraban.

21 A Good afternoon.

22 Q We are officers of the Commission for  
23 purposes of this proceeding. This is an  
24 investigation by the SEC in the matter of La Paz  
25 Mining Corp., Number NY-8922, to determine whether

1 there have been violations of certain provisions of  
2 the federal securities laws. However, the facts  
3 developed in this investigation might constitute  
4 violations of other federal or state civil or  
5 criminal laws.

6 Prior to the opening of the record you  
7 were provided with a copy of the Formal Order of  
8 Investigation. It will be available for your  
9 examination during the course of this proceeding.  
10 Have you had an opportunity review the formal order?

11 A Yes.

12 Q Prior to the opening of the record you  
13 were provided with a copy of the Commission's  
14 Supplemental Information Form 1662. I'm asking the  
15 court reporter to mark that, which is under tab 2,  
16 as Exhibit R.

(SEC Exhibit No. R was  
marked for identification.)

19 Q Have you had an opportunity to review  
20 Exhibit R?

21 A I did review it.

22 Q Do you have any questions concerning this  
23 exhibit?

24 A Not at this time.

25 Q Are you represented by counsel?

1 A Yes, I am.

2 MR. SUNSHINE: Counsel, would you please  
3 identify yourself.

4 MR. ANDERSON: John Anderson of Anderson  
5 Hinkins, J-o-h-n A-n-d-e-r-s-o-n.

6 MR. SUNSHINE: And Mr. Anderson, are you  
7 representing Mr. Irizarry here today?

8 MR. ANDERSON: I am.

9 BY MR. SUNSHINE:

10 Q I would like to mark the document on tab 3  
11 as Exhibit S. And Mr. Irizarry, can you turn to  
12 tab 3.

13 A Okay.

(SEC Exhibit No. S was  
marked for identification.)

16 Q It's been marked as Exhibit S. This is a  
17 copy of the subpoena that was sent to you. Is this  
18 a copy of the subpoena pursuant to which you are  
19 appearing today?

20 A Yes.

21 Q Now, I'd like to go over some ground rules  
22 for today's testimony. First, it's very important  
23 that you answer all of the questions verbally and  
24 not with a nod of the head or an "uh-huh." This is  
25 necessary so the court reporter can provide a clear

1 record. Do you agree to do that?

2 A Yes.

3 Q Now, do you understand that you are  
4 testifying under oath today?

5 A Yes.

6 Q And do you understand that it is a crime  
7 to lie under oath?

8 A I do.

9 Q Is there any reason why you would not be  
10 able to answer my questions truthfully and  
11 accurately today?

12 A No.

13 Q Are you taking any medications or do you  
14 have any medical condition that prevents you from  
15 understanding questions and answering them  
16 truthfully?

17 A I have asthma, but I don't think that that  
18 would prevent me from answering any questions.

19 Q And if I ask you a question and you don't  
20 understand the question, will you let me know?

21 A Absolutely, yes.

22 Q Now, you are represented by an attorney  
23 today and you have a right to confer with your  
24 attorney during testimony. I ask, however, that you  
25 not confer with counsel if there is a question

1 A The company was Bogue International.  
 2 Q And when did you become or take a  
 3 management role in that company?  
 4 A That was in 2005.  
 5 Q And then when was your next job?  
 6 A Let's see. Up until, let's see, it was  
 7 the end of 2005, so I was there for less than a  
 8 year. Then I worked for a small retailer for awhile  
 9 in Florida, and then I got a phone call to see if I  
 10 had any interest in working on a public company.  
 11 Q And that was in 2005?  
 12 A That was in 2007.  
 13 Q 2007. And who made that phone call?  
 14 A John Briner.  
 15 Q And what did he ask you?  
 16 A He asked me if I had any interest in  
 17 working on a company that they were developing, and  
 18 I just asked him to tell me more about it and how it  
 19 would work. And so they basically made an offer,  
 20 and I came on board.  
 21 Q And what was the name of that company?  
 22 A I think it was called Big Rock Coal, but  
 23 there was a problem with the name, and I think the  
 24 investment firm Black Rock asked them to change the  
 25 name. And there was -- you know, it went back and

1 forth, and anyway, the project ended up getting shut  
 2 down. It was too much time and, I guess, expense.  
 3 Q What was the terms of your engagement when  
 4 you were hired for that company?  
 5 A The terms were a very small salary until  
 6 the company was actually producing coal. So it  
 7 was --  
 8 Q Once -- sorry.  
 9 A I'm sorry?  
 10 Q Sorry, we've got to be careful about  
 11 talking over each other. What was the salary on  
 12 that?  
 13 A I think it was \$2,000 a month.  
 14 Q And once -- sorry, go ahead. That was in  
 15 the beginning. Then you said that it would change  
 16 once the company was operational? Is that what you  
 17 said?  
 18 A Once the company was operational, there  
 19 would be a restructuring of employment agreement  
 20 and, you know, benefits and things like that.  
 21 Q And what would your salary be after the  
 22 restructuring?  
 23 A I think it was \$3,500 a month and stock or  
 24 a stock option.  
 25 Q But did that ever come to fruition?

1 A No.  
 2 Q And when did that venture stop?  
 3 A I think it was maybe four months into it.  
 4 Q So sometime in the middle of 2007?  
 5 A Yes, yes. I don't recall the exact dates,  
 6 I'm sorry.  
 7 Q And what was your -- what did you do after  
 8 that?  
 9 A I didn't really do --  
 10 Q Sorry, let me take a step back. What was  
 11 your title with Black Rock Coal?  
 12 A President of the company.  
 13 Q And did you own any stock when you began  
 14 with Black Rock Coal?  
 15 A No, no. I never had any stock in my  
 16 position.  
 17 Q And then what was your next position?  
 18 A It wasn't until after 2008. For that year  
 19 I worked for a very small -- well, actually, not so  
 20 small, but a retailer in the mall for just part  
 21 time. And then later on in 2008 I got a call again  
 22 from John Briner, and he asked me if I was  
 23 interested in working on a couple of companies that  
 24 they were developing.  
 25 Q And that was in 2008?

1 A That was in 2009.  
 2 Q And what companies did he ask you about?  
 3 A They were La Paz, Clearpoint and Braxton.  
 4 Q Well, let me take a little sidestep  
 5 because in the subpoena we identified three  
 6 companies. I want to make sure these are the same  
 7 three that we're talking about, and I'll just go  
 8 through them one by one. So you were the CEO and  
 9 director of La Paz Mining Corp.; is that correct?  
 10 A Yes.  
 11 Q And you are the CEO and director of  
 12 Braxton Resources?  
 13 A Yes.  
 14 Q You were the CEO and director of  
 15 Clearpoint Resources, Inc.?  
 16 A Yes.  
 17 Q Okay, and as we go through this I may  
 18 refer to those three companies as "issuers," so by  
 19 saying "issuers" I mean all three of those.  
 20 A Okay.  
 21 Q If for some reason you think that the  
 22 question doesn't pertain to all three, just tell me  
 23 and we can break the question up for each issuer,  
 24 but this is just for the sake of efficiency. So  
 25 then going back to 2009, Briner called you about

1 these three issuers; is that right?  
 2 A Yes.  
 3 Q And what did he ask you in the call?  
 4 A At the time, though, I didn't know the  
 5 name of the companies. He just made reference to  
 6 companies that they were developing.  
 7 Q Did he tell you anything else about what  
 8 they did at the time?  
 9 A Mining and resources, energy, things like  
 10 that.  
 11 Q Did he approach you about any companies  
 12 other than these three issuers around this time?  
 13 A No, I think just those three.  
 14 Q Were you CEO and/or director of any other  
 15 issuers other than all the ones that we've  
 16 identified so far?  
 17 A I can't recall specifically because it  
 18 seemed to me like there would start what was to be a  
 19 development of a company, but then at some point he  
 20 may have referenced to, "Well, the client decided to  
 21 go in a different direction, so we're not doing that  
 22 company," or, "They ran out of money and so we're  
 23 not going to do this deal."  
 24 So there were a couple of others that I'm  
 25 sure he offered or asked. However, nothing that

1 officer-director; however, that's another company  
 2 that I can't seem to get any answers on or any  
 3 direction.  
 4 Q Is this a company that was referred to you  
 5 from John Briner?  
 6 A Yes. Yes.  
 7 Q And what was your compensation arrangement  
 8 for Viking Minerals?  
 9 A Viking Minerals started the same way. It  
 10 was supposed to start at \$2,000 a month, and then  
 11 once it got going, it would go from there. However,  
 12 I've never gotten paid from Viking Minerals.  
 13 Q And what was your title at Viking  
 14 Minerals?  
 15 A CEO, president of the company.  
 16 Q And what was your compensation arrangement  
 17 for Immobiliare?  
 18 A You know, I don't remember exactly what  
 19 the compensation was. Everybody had an employment  
 20 agreement. We had an employment agreement, but  
 21 we've never paid ourselves.  
 22 Q What about Artepharm Global Corporation?  
 23 A I don't know that company.  
 24 Q You've never heard of it?  
 25 A Never heard of it.

1 went anywhere or that did any final digging in the  
 2 ground or anything like that.  
 3 Q Okay. Were there any other companies that  
 4 you were a CEO or director of that did not come from  
 5 Briner, it was somebody else?  
 6 A No.  
 7 Q What about Immobiliare Global Investment,  
 8 Inc.?  
 9 A Oh, Immobiliare is something that we  
 10 started three years ago, but that's stagnant at the  
 11 moment. So I was an officer and director, but I  
 12 resigned. Or I was a vice president.  
 13 Q And when you say "we," who is it that you  
 14 started that company with?  
 15 A My business partner at the time.  
 16 Q And who was that?  
 17 A Wayne Middleton.  
 18 Q And was John Briner associated with that  
 19 company?  
 20 A No.  
 21 Q What was Wayne Middleton's title with that  
 22 company?  
 23 A President.  
 24 Q What about Viking Minerals, Inc.?  
 25 A Viking Minerals, Inc., I'm currently

1 Q So since we've been talking about John  
 2 Briner, maybe you could start with how you came to  
 3 meet John Briner.  
 4 A I met John through a gentleman by the name  
 5 of Reggie Gilmore.  
 6 Q And who is Reggie Gilmore?  
 7 A Reggie Gilmore at that time was one of my  
 8 customers when I had my clothing business.  
 9 Q And when was that?  
 10 A That was in 2006, is when I met John  
 11 Briner.  
 12 Q And why was that introduction made?  
 13 A I was in New York, and Reggie Gilmore was  
 14 in New York, and I think he was meeting with John.  
 15 And then I just went and met them and had lunch, and  
 16 that was it. Actually, no, there was no lunch. It  
 17 was just a meet and "Hello," and, "Nice to meet  
 18 you," and that was it.  
 19 Q Was it purely a social meeting or was  
 20 there business discussed?  
 21 A No business to discuss at that time.  
 22 Q And then what happened after that time?  
 23 When's the next time you had any communication with  
 24 Mr. Briner?  
 25 A Let's see. I think it was just a few

1 something go wrong? Did something happen that I'm  
2 unaware of? You know, what's going on here?"  
3 And so he didn't really have anything to  
4 say, or he didn't have much information to give or  
5 an opinion or whatever. And then after that I spoke  
6 to him a couple more times -- because I just really  
7 wanted to separate myself, basically, and -- you  
8 know, because I just didn't understand and don't  
9 understand a lot of these components, you know, and  
10 that includes Viking.

11 You know, I've repeatedly, for quite some  
12 time, have wanted to resign from Viking, and it  
13 always comes back to be, "Well, who are you going to  
14 resign to? It's your responsibility to stay on  
15 until, you know, we find a replacement or something  
16 changes."

17 Q Are you describing what Briner told you in  
18 response to your wanting to resign from Viking?

19 A Yes.

20 Q And that conversation that you're talking  
21 about, that happened sometime after the conversation  
22 you described in June?

23 A No, that conversation had been going on  
24 for quite a while prior to June, that I wanted to --  
25 you know, they never paid me. I've never gotten

1 by the book, and that there would be clarity in the  
2 process. And so I had heard something from someone  
3 else. I did not see it or read it or anything like  
4 that at all.

5 And so I just point-blank asked him, "Did  
6 you have a problem with the SEC in your past?" And  
7 he said yes, but that it was already cleared up,  
8 and, you know, there was no concerns and, you know,  
9 that it was something to do with a client that he  
10 had and it was a project that wasn't done correctly  
11 or something to that effect, and that was it.

12 Q Who was it that brought that to your  
13 attention?

14 A I think it was the gentleman that was in  
15 the mining business.

16 Q Who was that?

17 A His name is Jefferson Butz.

18 Q Jefferson Butz, you said?

19 A Jefferson Butz.

20 Q And how do you know that person?

21 A He was a customer of mine.

22 Q Is that the customer that you originally  
23 tried to connect Mr. Briner to or is that somebody  
24 else?

25 A Well, no. When Mr. Briner asked me about,

1 paid, you know. So, you know, it's like, "How long  
2 do I have to, you know, stick this out until -- you  
3 know, I just can't stick it out anymore." Do I just  
4 move on or" -- you know, so it's always kind of that  
5 same cycle.

6 Q So going back to June, what I'm trying to  
7 just nail down is since the conversation you've  
8 described after getting our subpoena, what other  
9 conversations have you had with Mr. Briner?

10 A Well, weeks later I called him about, you  
11 know, my concerns regarding this, you know, this  
12 case, and if he had any additional information. And  
13 his response was that he had never seen or never  
14 heard anything like this before. He had no idea why  
15 the SEC would want to ask me questions.

16 Q Were there, in substance, any other  
17 conversations?

18 A Not really.

19 Q Did there ever come a time where you  
20 learned that Mr. Briner had some -- had been sued by  
21 the SEC in the past?

22 A You know, I asked him once a long time  
23 ago, and my conversation with him was that I needed  
24 to be sure, because I didn't have experience in this  
25 industry, that, you know, everything would be done

1 you know, a customer that I had that was in the  
2 mining business, that's the gentleman that I was  
3 referring to, yes.

4 Q Jefferson Butz?

5 A Yes.

6 Q And when did Mr. Butz bring this to your  
7 attention?

8 A I guess that was in -- I'm not sure. I  
9 think it was 2007. Might have been earlier.

10 Q Was it -- maybe we'll use one of the  
11 landmarks that you've identified. Was it after  
12 Black Rock or before Black Rock?

13 A I think it might have been before.

14 Q But you're not 100 percent sure; is that  
15 right?

16 A Not 100 percent, no.

17 Q Turning back to the issuers as we've  
18 defined it earlier, La Paz Mining, Braxton and  
19 Clearpoint, could we go back to how you came to be  
20 the CEO and director of those issuers?

21 A Yes. What is the specific question, Mr.  
22 Sunshine?

23 Q Just if you could just describe the story  
24 of how you came to be the CEO or director for these  
25 issuers.

1 A I got a phone call from Mr. Briner and,  
 2 you know, went through some niceties. He has a  
 3 daughter and I have a daughter that have the same  
 4 name, so it's kind of a conversation piece.  
 5 Then he said that he had a new client, or  
 6 a client that was developing a few companies. Would  
 7 I be interested in coming on board through the  
 8 developmental process until they're done with the  
 9 paperwork, the filings, the S-1 up until that point,  
 10 and then, you know, they would bring someone else  
 11 on, you know, with more experience, or something to  
 12 that effect.  
 13 And I said, "Well, you know, can you tell  
 14 me more about what it is?"  
 15 "Well, they're all energy projects, some  
 16 mining. You know, you'd have to, you know, go  
 17 through the whole process of establishing the  
 18 corporation, you know, go through the paperwork,"  
 19 and then basically, you know, the paperwork was  
 20 always explained to me, "Well, this is what we  
 21 need," or, "This is protocol," or, "This is coming  
 22 directly from John," or Sandy would call me and say,  
 23 "Okay, we need this signed. We need it right away."  
 24 I'm like, "Okay, well, can you tell me  
 25 specifically what it is?" Or if I had any

1 questions, "All right, let me have John give you a  
 2 call." But I've never -- you know, it could be a  
 3 week or so before I got that call back. Or if I  
 4 asked for, you know, just information on the  
 5 projects or anything that would help me understand  
 6 the process a bit better.  
 7 Those requests I sometimes e-mailed, but I  
 8 found it more effective to just call -- you know,  
 9 call Sandy, his assistant, and just say, "Look, I  
 10 need this or this."  
 11 And so he said, "Well, I've got two  
 12 projects," and then the third one came, I think just  
 13 a bit later on. And a little bit -- I mean --  
 14 Q This call, just so we can, you know, make  
 15 sure we get the timing, that's important for us, was  
 16 the initial call in 2009? I think you said earlier.  
 17 A Yeah, it was after 200. It was after the  
 18 crash in October, so it was probably mid-2009.  
 19 Q And you mentioned that Briner came to you  
 20 and said that he had a client that was developing  
 21 some companies. Do you know who that client was?  
 22 A No. At that time I did not know the name  
 23 of the client.  
 24 Q Did there come a time when you learned the  
 25 name of the client?

1 A When I got the subpoena, it said Jarvis --  
 2 Jervis Exploration. And I asked him about, you  
 3 know, what the paperwork had said, and he said --  
 4 about Jervis, because I had never heard the name  
 5 before, nor did I meet anybody from that company or  
 6 anything like that at all.  
 7 So when I called them after receiving the  
 8 paperwork in June, I asked him, "Well, what's the  
 9 deal with" -- and he said -- give me one second --  
 10 he said -- I'm not sure if I'm putting this  
 11 correctly. He said there might be an issue with  
 12 beneficial ownership in that company, Jervis, and  
 13 him, and John Briner. But I didn't know what that  
 14 meant.  
 15 Q Okay. Well, just take a half step back.  
 16 Why did you think that the client he had in mind was  
 17 Jervis Explorations, Inc.?  
 18 A Because it was in the paperwork.  
 19 Q So you just assumed because you saw the  
 20 name on the paperwork?  
 21 A No, I didn't assume that that was the  
 22 client. I asked him, "What's the deal with that  
 23 company?"  
 24 Q But did you ever learn -- when he said  
 25 originally in 2009 that he had a client that was

1 developing companies, did you ever learn who that  
 2 client was?  
 3 A No. No. I never met any of his clients. I  
 4 never received anything from anybody that was  
 5 supposed to be a client of his, like, you know,  
 6 money or stock or anything like that, from any --  
 7 you know, any other person, any other location than  
 8 his office.  
 9 Q Had you ever asked him who the client was?  
 10 A I'm sure that I did a couple times.  
 11 Q And what was his response those times?  
 12 A Investors, we have a few investors in this  
 13 company, and they're an investment group. Very  
 14 general, as if assuming he had attorney-client  
 15 privilege with them or something to that effect.  
 16 Q He didn't identify for you who the  
 17 investors were?  
 18 A No.  
 19 Q Do you have any understanding why he asked  
 20 you to do this for the issuers?  
 21 A At the time I did, but in hindsight I  
 22 think it was more of a sales pitch.  
 23 Q At the time, what was your thinking?  
 24 A I don't know. I kind of felt like he  
 25 developed a rapport with me, you know, in the sense

1 of, you know, he seemed like a nice person, an  
2 attorney, and, you know, a church guy, you know.  
3 So, you know, we had some general, you know,  
4 conversations like that, and he seemed like a nice  
5 person.

6 And then he said, "Charles, you know, I  
7 feel like I can trust you, from when I met you. You  
8 know, would you be interested in this business?"

9 And, you know, I always asked him, I said,  
10 "Well, okay, can you -- you know, I don't have a  
11 background in this business. I don't have an  
12 education in this business." You know, and my exact  
13 words to him were, "I can make you a custom-made  
14 suit from scratch. However, when it comes to this,  
15 I have a lot of questions. Would you be willing to  
16 answer them and teach me, you know, so that I have a  
17 better understanding?"

18 So, you know, the niceties were there.  
19 "Yeah, sure, you know. We'll do everything by the  
20 book, and, you know, whatever questions you can  
21 e-mail me or talk to Sandy or ask me personally."

22 Q Do you have any understanding of what  
23 Briner's purpose was in establishing the issuers?

24 A I always thought he was just the legal  
25 side of it. In other words, putting all the

1 continue to work for a company in actual operations,  
2 something that I could do where I could physically,  
3 you know, work, then, you know, I would have an  
4 opportunity to do that.

5 But the other companies would be, you  
6 know, I guess be offered to someone else to run.  
7 But I didn't understand his offer to be, "Well, I'm  
8 going to put you on three companies then you can run  
9 all of them." You know, because, I mean, it just,  
10 to me, didn't make any sense at all.

11 Q Did you know if Briner had established  
12 other issuers similar to the issuers that you were  
13 CEO of?

14 A Well, I knew he had more than three  
15 companies, but I didn't know how many.

16 Q And you mentioned the developing mining  
17 projects, and I think you said that they would want  
18 to see which ones, I guess, worked out. Do you know  
19 what Briner had planned for for the entities had  
20 they gotten through the S-1 registration process?

21 A My guess is that they were just looking to  
22 develop all these companies and, you know, make them  
23 run for the purpose of, you know, running a  
24 business, building a business and I guess making  
25 money. I mean, that's -- you know, my intention

1 paperwork together, making sure it was done  
2 properly, and I guess on behalf of the investor or  
3 the client, and then managing that process.

4 Q Do you have any understanding of what was  
5 behind the legal side? Meaning, like, you know,  
6 what was the impetus of whoever was pushing the  
7 issuers forward?

8 A No.

9 Q Do you know why he asked you to be  
10 CEO/director of three entities?

11 A He -- the way that he explained it to me,  
12 and my understand, was that they were developing --  
13 they had a client with quite a few projects, quite a  
14 few different mining projects. They were going to  
15 develop a few companies and bring them along and see  
16 which one would be the best to, I guess, invest time  
17 and energy at the point where, you know, they were  
18 done with the filing and the whole registration  
19 process.

20 And my understanding from him as my  
21 responsibility or my job or whatever, was that I  
22 would help in the form of, you know, being an  
23 officer/director, with establishing the paperwork  
24 and getting the filings done and getting all that to  
25 a certain point where, at that point, if I wanted to

1 with him was to really, you know, try to create an  
2 opportunity, you know, just in another business.  
3 And I don't think that these projects, you know,  
4 they didn't seem like they either were well-funded  
5 in the beginning or well-thought out because it  
6 seemed to kind of follow the same pattern.

7 Q Was there any discussion that the  
8 companies, the issuers, was there any discussion  
9 that the issuers would be sold once they got through  
10 with the S-1 process?

11 A No, not with me, no.

12 Q Do you know what a reverse merger is?

13 A You take a private company and you put it  
14 into a public company?

15 Q You know, we can't -- that's just what's  
16 your understanding, and I can't tell you right now.

17 A All right, I understand.

18 Q I'm just asking for your understanding.  
19 Did you understand that these companies may be  
20 involved in reverse mergers down the road?

21 A I don't know that I had those  
22 conversations with Mr. Briner, but there were  
23 conversations about reverse merger and things like  
24 that, yes. I just didn't know what pertained to  
25 what company or what the strategy was.

1 In the beginning, I believed that they had  
2 a project of merit that was qualified to go through  
3 the S-1 process, and that I would be on board up  
4 until the point where the company's ready, you know,  
5 for a capital investment, for, you know, other  
6 management or -- Mr. Sunshine, would you mind if I  
7 got some more water, please?

8 Q Sure. Do you need to take a break or do  
9 you just want to get some water?

10 A No, just some water, please.

11 Q Okay. You mentioned that there was some  
12 discussions about reverse mergers. Do you know who  
13 those discussions were with?

14 A When I got invited to meet his staff, his  
15 team, however you want to put it, I know that there  
16 were discussions referencing reverse merger and, you  
17 know, things like that. I can't say that I had  
18 direct conversations with him in reference to these  
19 issuers regarding reverse mergers into those  
20 entities.

21 Q Did you have discussions with his staff  
22 about that?

23 A No, no.

24 Q Tell me your understanding.

25 A There was a general kind of a big

1 A No, not at this meeting.

2 Q Who else was there?

3 A The only name that I remember, but I don't  
4 know this gentleman at all, I just remember his name  
5 because he had kind of a funny name, was Norm  
6 Nissen. But I don't know him. I don't, you know --

7 Q Do you know what his role was, like, what  
8 his profession was?

9 A No, no, nothing like that, I don't.

10 Q But this meeting was in John Briner's  
11 offices?

12 A Yes. I don't know if it was an official  
13 meeting. It was more, to me, like a discussion,  
14 just talking shop.

15 Q Were there any other CEOs there for  
16 different companies?

17 A Not that I can recall.

18 Q And you said that in the course of  
19 discussions there was some talk about reverse  
20 mergers, but you don't remember exactly what was  
21 discussed about that?

22 A No.

23 Q Did you expect the issuers to be pursuing  
24 the mining claims that they had?

25 A Yes.

1 conference room meeting. There were other people  
2 there. I don't know them. I know one guy was a  
3 geologist. It was just a conversation where I  
4 pretty much just sat there and listened the whole  
5 time. I really wasn't part of it.

6 Q What conference are you referring to?

7 A It was a meeting when Mr. Briner invited  
8 me to come to Vancouver and meet his staff.

9 Q And just describe that a little bit more.

10 You said you were in some conference room with other  
11 people including a geologist; is that right?

12 A Yeah. There were -- you know, they were  
13 just talking, a roundtable-type conversation, no  
14 real agenda or anything like that. But they were  
15 just talking lingo, talking about business, you  
16 know, reverse mergers, mining, geological terms that  
17 I had really no clue what the gentleman was  
18 referring to.

19 Q And was there Briner in attendance at this  
20 meeting you're talking about?

21 A Yes.

22 Q And you said there was a geologist there.  
23 Do you know who that was?

24 A I don't. I don't recall his name at all.

25 Q Was Mr. Middleton there as well?

1 Q And this is at the time that you would  
2 have signed up with John Briner with these issuers?

3 A Yes. Yes. Go ahead.

4 Q And what was the plan to be able to pursue  
5 mining? And I say that because, you know, as you  
6 know, we'll talk about the issuers weren't  
7 well-capitalized at that point, so what was the plan  
8 in order to, you know, engage in mining?

9 A I don't know that John discussed a plan  
10 per se with me because from my understanding right  
11 in the beginning, this was a process of paperwork  
12 and S-1, you know, that whole process, and it would  
13 take, you know, six to nine months.

14 And, you know, I guess in that time frame  
15 there they were developing, you know, financing for  
16 these projects. I didn't engage in conversation  
17 about development or financing or finding an  
18 operator for these projects. From past  
19 conversations I pretty much assumed that they had  
20 all that in place already.

21 Q So let's talk more specifically. What did  
22 you understand your specific responsibilities were  
23 with respect to the issuers?

24 A At that time, timely signature for  
25 documents that, you know, for the orders or the

1 CPAs, you know. I mean, that was it, basically.  
 2 You know, that I had to just, you know, comply and  
 3 assist with getting the paperwork done on time. And  
 4 so that, you know, the companies would meet their  
 5 filing dates. That was basically it up until the  
 6 point where they were, you know, ready to trade, and  
 7 then at that time my job would change, per se.  
 8 Q And whose decisions was it to purchase the  
 9 specific narrow claims that each of the issuers  
 10 purchased?  
 11 A It was not my decision.  
 12 Q Whose was it?  
 13 A You know, the only one that I communicated  
 14 with was John Briner, so I would assume that it was  
 15 either his decision or someone in his group that  
 16 brought the deal in. It wasn't me.  
 17 Q So you didn't negotiate with the entity  
 18 from whom the issuers purchased the mining claims;  
 19 correct?  
 20 A Correct.  
 21 Q And do you know who did that negotiation?  
 22 A No, I don't.  
 23 Q Do you believe that it was Mr. Briner?  
 24 A I do.  
 25 Q And why do you believe that?

1 A Mr. Briner.  
 2 Q And do you know how it was decided how  
 3 much money was needed to put into the company?  
 4 A I do not.  
 5 Q All right. And were you compensated in  
 6 connection with your role with the issuers?  
 7 A Yes. The original compensation through  
 8 the process of the S-1 was \$10,000, of which it was  
 9 \$2,000 up front on each company, and then the  
 10 balance would be paid once the companies were up and  
 11 running. However, on I think it was on La Paz, I  
 12 received an extra \$1,000, but it was down the road a  
 13 little bit. Maybe, I don't know, a few months, five  
 14 months. I'm not sure exactly.  
 15 Q Do you know how the amount of your  
 16 compensation was determined?  
 17 A I do not.  
 18 Q And do you know who paid for the  
 19 compensation?  
 20 A It came from John Briner's office.  
 21 Q And did you understand that to be John  
 22 Briner's funds that he was paying you with?  
 23 A I don't know that I understand it to be  
 24 directly from him. Sandy Vargas was the  
 25 intermediary on all those transactions. But I know

1 A Because he's basically the only one that I  
 2 spoke to about any of this stuff. And I don't  
 3 know -- I don't know who else there is, you know, if  
 4 he negotiated it or wherever the project came from  
 5 on behalf of the company, but it was not me.  
 6 Q So in terms of the company issuers, each  
 7 of the issuers sold stock to you as the owner/CEO.  
 8 Do you know, did you put up the \$30,000 to purchase  
 9 the company's, the issuers' stock?  
 10 A No, I did not.  
 11 Q Do you know who did?  
 12 A No, I don't.  
 13 Q Did you understand that there was stock  
 14 purchased in your name?  
 15 A My understanding was that the control  
 16 block would be in my name so that it could go  
 17 through the process, and then later on, I guess with  
 18 investors, then the control block got sent back and  
 19 broken up accordingly. That's my understanding.  
 20 Q And when you say "control block," do you  
 21 mean a sizable amount of stock such as that you had  
 22 control of the company?  
 23 A That's the way it was described to me,  
 24 yes.  
 25 Q And who described that to you?

1 that the paperwork came from his office. I don't  
 2 know if the funds were from the client or the  
 3 investor. Excuse me. That direct connect, I do not  
 4 know.  
 5 Q Did you believe it was from the issuers'  
 6 funds that you were being paid?  
 7 A I don't believe that, either. I just -- I  
 8 mean, again, the only person that I dealt with was  
 9 John Briner's office. So I never said, "Okay,  
 10 where's -- is this coming from, you know, your bank  
 11 account or someone else's?" I never asked that  
 12 question. I just, you know, received instructions  
 13 and/or asked me for instructions, and then, you  
 14 know, they'd just send a wire for 2,000 bucks then  
 15 would wait. It was always a waiting game.  
 16 Q Do you know who hired the auditors that  
 17 audited the issuers?  
 18 A I don't know. They were on board already  
 19 when I came on board.  
 20 Q And you didn't hire the accountants for  
 21 issuers?  
 22 A I remembering receiving paperwork to  
 23 confirm an agreement, you know, with De Joya  
 24 Griffith, but I didn't interview them for this  
 25 project.

1 Q The auditors were presented to you already  
2 before you even signed on? Is that what you are  
3 saying?

4 A Yes.

5 Q And with each S-1 for the issuers, there  
6 were also attorney opinion letters. In the same way  
7 you described the auditors were presented to you,  
8 was the attorney that provided those letters already  
9 presented to you as well?

10 A Yes. I didn't choose anybody.

11 Q Do you know how the issuers bills were  
12 paid?

13 A I do not.

14 Q Well, for example, if the issuers had to  
15 pay a fee to incorporate. Do you know who paid that  
16 fee?

17 A I would imagine it came from Mr. Briner's  
18 office.

19 Q And if the issuers would have purchased a  
20 mining claim, who made the payment for the mining  
21 claim?

22 A It did not come from me or my office or  
23 bank account. I did ask about establishing a  
24 company bank account and, you know, being in charge  
25 of that, but the response I received was that, "As

1 clarify. I don't mean the external auditors, I mean  
2 literally for the issuers, who kept track of their  
3 transactions?

4 A Can we go back one question?

5 Q Sure.

6 A Okay. The question was did I have any  
7 access to any accounts?

8 Q Did you have access to the issuers'  
9 accounts that were being held by John Briner as  
10 you've described?

11 A No, no, access at all.

12 Q Then after that I asked: Do you know who  
13 kept track of the transactions that the issuers  
14 engaged in?

15 A My understanding was there was a  
16 bookkeeper and the CPA.

17 Q And who employed the bookkeeper?

18 A I believe it was Mr. Briner.

19 BY MS. MEHRABAN:

20 Q Do you know the name of the bookkeeper?

21 A I think it's Sandy Vargas.

22 BY MR. SUNSHINE:

23 Q And do you know who created the financials  
24 for the issuers that were then provided to the  
25 auditors?

1 soon as the company is ready, ready to move on, then  
2 we'll establish a bank account."

3 Q So what was your understanding of where  
4 the issuers funds were being held in the meantime  
5 before a bank account was established?

6 A Maybe in escrow with Mr. Briner.

7 Q All three issuers, you believe, were in an  
8 account that Mr. Briner held?

9 A I don't know. I don't know. That is an  
10 assumption.

11 Q You don't have -- is it fair to say you  
12 don't have any knowledge about how the issuers'  
13 funds were being held before a bank account was  
14 established?

15 A Yes, that is fair to say.

16 Q Did Mr. Briner ever provide bank  
17 statements to you?

18 A No.

19 Q Did you have any other access to Mr.  
20 Briner's account for the issuers?

21 A No.

22 Q Do you know who did the accounting for the  
23 issuers?

24 A One second.

25 Q I'm sorry, let me rephrase. Let me just

1 A I do not. I do not know who created  
2 financials. I don't know exactly who created them,  
3 but I think it might have been John Briner's  
4 brother.

5 Q Do you know his name?

6 A Julius.

7 Q Is it Julius Briner?

8 A Julius Briner, yeah.

9 Q And where does your understanding that  
10 Julius Briner created the financials come from?

11 A You know, I heard Mr. Briner say on a  
12 couple occasions that his brother created business  
13 plans, you know, and I think he mentioned, you know,  
14 financials also at one time, but I'm not 100 percent  
15 certain.

16 Q Did the issuers have any strategy for  
17 obtaining short-term loans?

18 A Not that I'm aware of.

19 Q Did you plan to loan the issuers any  
20 money?

21 A No.

22 Q Do you think that Mr. Briner had any plans  
23 to loan the issuers any money?

24 A Loan the company?

25 Q Loan to the issuers or provide the issuers

1 with a short-term loan to operate.  
 2 A No, I don't think so. No, I don't believe  
 3 that. My understanding was that the companies had  
 4 funds from investors. Who those investors were or  
 5 who the clients were, I don't know.  
 6 Q Was there any plan to obtain any  
 7 additional equity investments in the issuers?  
 8 A Can you rephrase that question, please?  
 9 Q Yes, sure. Do you know whether there was  
 10 any strategy for getting additional people to invest  
 11 money in the issuers?  
 12 A No. You mean, like, promote it to  
 13 somebody else? Like, promote it to an investor or  
 14 something?  
 15 Q Yes.  
 16 A No.  
 17 MR. ANDERSON: I'm sorry, could we just  
 18 clarify whether -- because I don't know whether that  
 19 answer is yes -- or no, I don't know of a plan, or  
 20 no, there was no plan. Do you see what I'm saying?  
 21 MS. MEHRABAN: Yes.  
 22 A I was not privileged to any plan nor did I  
 23 ever discuss any plan at all to market the company  
 24 in any capacity.  
 25 BY MR. SUNSHINE:

1 Q Do you have any understanding of whether  
 2 Mr. Briner marketed the company stock?  
 3 A No.  
 4 Q The issuers' stock.  
 5 A No, I do not.  
 6 Q Do you know whose decision it was to sell  
 7 stock? And by that I mean the S-1 registration  
 8 statements are for the purpose of selling stock. Do  
 9 you know whose decision it was to sell stock to  
 10 begin with?  
 11 A No, I don't. I mean, the issuers almost  
 12 came to me prepackaged. You know, the accounting,  
 13 the legal, the paperwork, I don't know. At first I  
 14 just kind of thought very well organized. I don't  
 15 know if that's the same opinion anymore, but I  
 16 thought of it as, you know, it was organized. But  
 17 no.  
 18 Q Did you understand that the issuers were  
 19 filing an S-1 registration statement?  
 20 A That I did understand, yes.  
 21 Q What's your understanding of what an S-1  
 22 registration statement even is?  
 23 A Well, it's the process to take a private  
 24 company public.  
 25 Q Anything else?

1 A Valuate it, issue stock, raise money for  
 2 the company, develop it, grow it.  
 3 Q Does that include selling stock?  
 4 A Prior to the S-1 or post S-1?  
 5 Q No, no. What's the purpose of an S-1? Is  
 6 the purpose of an S-1, in your understanding, to  
 7 sell the stock?  
 8 A Yes.  
 9 Q Did you review the S-1 for the issuers?  
 10 A Whatever parts I got in the beginning  
 11 until I got the whole package later on, I did review  
 12 it.  
 13 Q And did you also give your approval to  
 14 filing the S-1 for the issuers?  
 15 A Yes, I did sign the paperwork.  
 16 BY MS. MEHRABAN:  
 17 Q When you signed it, did you have the whole  
 18 document?  
 19 A No.  
 20 Q What did you have?  
 21 A Mostly signature pages. Sandy would send  
 22 pages, and I would request, you know, the full  
 23 document, and I would either get it later on or not  
 24 get it at all.  
 25 Q You said earlier, I believe, that you

1 sometimes got parts of it. When would that happen?  
 2 A Well, sometimes I would get an e-mail from  
 3 Sandy, "This requires signature. I sent you the  
 4 signature page to save time," or whatever, and  
 5 they'll just send me the full document when we can.  
 6 From her, the phone calls were always kind of,  
 7 "Okay, we've got to get it down now. It's got to  
 8 happen now. We're under a crunch. We've got this,  
 9 we've got that."  
 10 I'm like, "Okay, okay," and I'll go and  
 11 get it signed, and, you know, send it back.  
 12 And, "Just send me everything when -- you  
 13 know, when you have the time to send it."  
 14 BY MR. SUNSHINE:  
 15 Q Did there come a time when you did have  
 16 the complete S-1 for each of the issuers?  
 17 A Yes.  
 18 Q And did you review the complete S-1 before  
 19 approving it?  
 20 A I believe that I reviewed it to the best  
 21 of my ability.  
 22 Q Now, the S-1s contemplate a sale of the  
 23 stock. Do you know who would receive the proceeds  
 24 from the sale of the stock?  
 25 A Isn't it the company? I mean --

1 and then the balance to be paid once the company had  
 2 a trading symbol. However, the 15 million shares, I  
 3 never physically took possession of that.  
 4 Q And when you say "15 million," I think you  
 5 mean -- you're talking about the sentence after  
 6 that?  
 7 A Oh, yeah, I'm sorry. "In addition, the  
 8 Consultant shall be issued 15 million shares."  
 9 Q So that part of the compensation terms,  
 10 you don't think that you had possession of those  
 11 shares?  
 12 A Maybe on paper, but I never physically had  
 13 a cert or anything like that.  
 14 Q But you understood that you had what you  
 15 described earlier as a control block of shares; is  
 16 that correct?  
 17 A Right. It was described to me as part of  
 18 the process to get, you know, the company through  
 19 the S-1. John's pitch was -- this is going back  
 20 awhile, you know -- "You look like somebody that we  
 21 can trust, and if we have to put a block of stock in  
 22 your name, I don't think you would run away with  
 23 it." You know, things of that nature was the  
 24 conversation. And that's how I understood what a  
 25 control block was, and that's what -- my assumption

1 was in the beginning that's why they put it in my  
 2 name.  
 3 Q Because he trusted you?  
 4 A Again, that's what his sales pitch was,  
 5 yeah. I don't know that I believe that anymore.  
 6 MR. SUNSHINE: So I think we can take a  
 7 five-minute break. So going off the record at  
 8 2:31 p.m. Eastern Standard Time, December 10th,  
 9 2013.  
 10 (A brief recess was taken.)  
 11 MR. SUNSHINE: We're on the record at  
 12 2:45 p.m. Eastern Standard Time, December 10th,  
 13 2013.  
 14 BY MR. SUNSHINE:  
 15 Q Mr. Irizarry, during the break isn't it  
 16 correct that we did not have any substantive  
 17 discussion about your testimony today?  
 18 A That's correct.  
 19 Q So before the break we were discussing  
 20 Exhibit 153, which is tab 6 in your binder. And  
 21 earlier you had mentioned that you got the call from  
 22 John Briner in 2009 for the issuers, but your  
 23 Engagement Agreement is dated in November of 2011.  
 24 So I just want to ask, is the time frame of the  
 25 first call that you mentioned, do you think that's

1 accurate or could it have been later?  
 2 A I think it was a little later, but I must  
 3 also say that, you know, things just took forever.  
 4 I mean, it just -- things took so much time. You  
 5 know, in between, like, momentum was not -- you  
 6 know, was nonexistent.  
 7 Q So looking at the date of the agreement,  
 8 when do you think the first call from John Briner  
 9 was?  
 10 MS. MEHRABAN: Related to La Paz Mining  
 11 BY MR. SUNSHINE:  
 12 Q Related to La Paz Mining.  
 13 A I believe it might have been the spring of  
 14 2011.  
 15 Q So does this document help you remember  
 16 when you think that first call related to La Paz  
 17 was?  
 18 A For these issuers, yes. I believe it was  
 19 spring of 2011.  
 20 Q Turning to tab 7 of your binder, I'm going  
 21 to ask the court reporter to mark the document in  
 22 tab 7 as Exhibit 154.  
 23 (SEC Exhibit No. 154 was  
 24 marked for identification.)  
 25 Q Exhibit 154 at the top says "incoming FED

1 message," and appears to reflect -- on the first  
 2 page appears to reflect a wire transfer in the  
 3 amount of \$3,000. The second page appears to  
 4 reflect a wire transfer in the amount of \$2,000.  
 5 The third page appears to reflect a wire transfer of  
 6 \$2,000. Mr. Irizarry, have you seen these documents  
 7 before?  
 8 A Yes.  
 9 Q And what are they?  
 10 A These are wire transfers to me. However,  
 11 I think I screwed up the amounts in our earlier  
 12 conversation.  
 13 Q Let's look at the first page. The first  
 14 page at the bottom, in handwriting says "La Paz."  
 15 A Okay.  
 16 Q Is that your handwriting?  
 17 A Yes.  
 18 Q And where it says "beneficiary" in the --  
 19 toward the bottom right of the document, it says  
 20 "Crown Capital Partners, LLC."  
 21 A Right.  
 22 Q What is that?  
 23 A That's just an LLC that I formed.  
 24 Q And are you the 100 percent owner of Crown  
 25 Capital Partners?

1 issued on a pro rata basis as payment is received."  
 2 My question is: Did you provide -- did you pay  
 3 \$30,000 to the company, to the issuers, for the  
 4 stock?  
 5 A No, I did not.  
 6 Q And that money, did you understand that  
 7 money was paid from somewhere else?  
 8 A I'm assuming that it was paid from  
 9 somewhere else.  
 10 Q Do you have any knowledge of where it was  
 11 paid from?  
 12 A No, I do not.  
 13 Q Turning toward the purchase of the mining  
 14 claim itself, do you have any understanding of how  
 15 the mining claims for the issuers were transferred  
 16 from the previous owner to the issuers?  
 17 A I believe it was a contract for purchase.  
 18 Q Well, are you familiar with a Web site in  
 19 British Columbia for the purchase and sale of mining  
 20 claims?  
 21 A No, I am not.  
 22 Q Was it your understanding that the issuers  
 23 purchased 100 percent of certain mining claims?  
 24 A I'm sure that there was a purchase of  
 25 mining claim. I don't know if it was 100 percent of

1 purchase of the mining claim. Did you review this  
 2 document at the time that you signed it?  
 3 A I think this is one of the documents that  
 4 I might have received partial documents from Sandy.  
 5 Q Okay, you don't think you saw the whole  
 6 document?  
 7 A I do not. Otherwise, I think I would have  
 8 remembered Jervis Explorations as it is presented in  
 9 the subpoena.  
 10 Q And who provided you the partial part of  
 11 this document?  
 12 A Most of the documents, or a high  
 13 percentage of the documents came from Sandy.  
 14 Q Now, turning back to where you signed on  
 15 page 1154. Are you on 1154?  
 16 A Yes.  
 17 Q Now, if you look above your signature, it  
 18 says "Jervis Exploration, Inc." above it as well.  
 19 Do you see that?  
 20 A Oh, yeah, I do see that, yes.  
 21 Q Do you think -- did you notice that at the  
 22 time you the signed it?  
 23 A I did not.  
 24 Q So you had never heard the name Jervis  
 25 Explorations, Inc. before today?

1 the claim or not. I wasn't privy to any financial  
 2 transactions or any of that at all.  
 3 Q If you can turn to tab 10. Tab 10, I'm  
 4 asking the court reporter to mark that as Exhibit  
 5 156.  
 6 (SEC Exhibit No. 156 was  
 7 marked for identification.)  
 8 Q The Exhibit 156, tab 10, is entitled  
 9 "Asset Purchase Agreement," dated November 30th,  
 10 2011 between Jervis Exploration, Inc. and La Paz  
 11 Mining Corp. Do you recognize this document?  
 12 A I'm sorry, what page is it?  
 13 Q This is -- I'm just talking about the  
 14 first page, what's in tab 10. Are you on tab 10?  
 15 A Yes.  
 16 Q It says "Asset Purchase Agreement" on the  
 17 top of the page.  
 18 A Okay.  
 19 Q Do you recognize this document?  
 20 A I do not.  
 21 Q If you could turn to page 1154, at the  
 22 bottom of the page where it says "Purchaser," does  
 23 that reflect your signature?  
 24 A That appears to be my signature, yes.  
 25 Q Now, this document appears to reflect the

1 A No, not before today.  
 2 Q I'm sorry, before the subpoena. Before  
 3 the subpoena.  
 4 A In June. In June.  
 5 Q So before --  
 6 A Yeah. Prior to that, no, I've never met  
 7 anyone from the company or had any conversation or  
 8 any dialogue with anyone from Jervis.  
 9 Q Okay. If you can turn to 1153. At the  
 10 top it says "Schedule A" to the Purchase Agreement,  
 11 the Asset Purchase Agreement. Do you see at the  
 12 bottom where it says "John D. Briner" and the  
 13 signature? Do you see recall seeing this document  
 14 at the time that you signed the page we just looked  
 15 at?  
 16 A I'm unsure of whether or not I've seen  
 17 this document before, Mr. Sunshine. It looks  
 18 familiar, but I can't -- I don't remember for sure.  
 19 Q And do you have any recollection of seeing  
 20 John Briner's name on this document, even if you  
 21 don't recognize the whole document?  
 22 A I'm sorry, could you repeat the question?  
 23 Q Well, the question is: Do you have any  
 24 recollection of noticing that John Briner's name is  
 25 on this particular page at the time that you signed

1 the page we just looked at?

2 A Okay. You'll have to excuse me, Mr.  
3 Sunshine, I'm not understanding you clearly.

4 Q That's okay. Let me rephrase it. You're  
5 looking at page 1153?

6 A Yes.

7 Q And at the bottom of the page do you see  
8 where it says "John D. Briner" in print?

9 A Yes.

10 Q At the time you signed the next page, do  
11 you remember noticing that John's name was here?

12 A No.

13 Q Okay.

14 BY MS. MEHRABAN:

15 Q How did Sandy send documents to you?

16 A Mostly e-mail. Sometimes fax. But I  
17 don't think I ever got any -- oh, no, I did get some  
18 documents by mail, but I think that was at the end.  
19 But mostly -- yeah, mostly fax, mostly e-mail and  
20 fax.

21 Q Do you keep documents that are faxed to  
22 you?

23 A Do I keep them?

24 Q Yes.

25 A I generally do, yes.

1 the document at tab 11 as Exhibit 157.

2 (SEC Exhibit No. 157 was  
3 marked for identification.)

4 Q Exhibit 157 reflects a series of  
5 transactions. It says "La Paz Mining Corp." on the  
6 left side and "trust account." Mr. Irizarry, do  
7 you -- have you seen this document before?

8 A I don't think I've seen this document.

9 Q And when I ask you that, I mean either in  
10 hard copy print or as an Excel file.

11 A I don't believe that I've seen this  
12 document before.

13 Q Okay. Let me direct you to the first line  
14 of the transactions, the first one dated December  
15 29th, 2011. Under "name" it says "Hyperion  
16 Management." Have you ever heard of Hyperion  
17 Management?

18 A No.

19 Q Next to it it says "investment." Do you  
20 have any idea of what that might be referring to?

21 A No, I do not.

22 Q And on the final column on that there's a  
23 number, \$30,000. Do you have any understanding of  
24 what that \$30,000 might be referring to?

25 A Well, the only other \$30,000 that we've

1 Q And in response to the subpoena, did you  
2 look for those documents?

3 A I went through everything, everything Mr.  
4 Anderson -- well, everything that the subpoena asked  
5 for and verified with Mr. Anderson as well,  
6 including some text messages and stuff like that.

7 BY MR. SUNSHINE:

8 Q We talked earlier about the accounting  
9 that was done for the issuers, and I believe you  
10 testified that there was a bookkeeper at MetroWest  
11 that did the accounting. And I think you said the  
12 bookkeeper might have been Sandy; is that correct?

13 A Could have been Sandy or Mr. Briner's  
14 brother or both.

15 Q You're not sure, but you understood that  
16 the bookkeeping was being done somehow in connection  
17 with MetroWest; correct?

18 A Yes.

19 Q Did anybody ever show you any of the  
20 accounting that was done before the S-1s were filed  
21 for the issuers?

22 A No.

23 Q If you can turn to tab 11.

24 A Okay.

25 Q And I'm asking the court reporter to mark

1 seen is the \$30,000 for the purchase of the  
2 property.

3 Q I think you meant stock.

4 A Oh, correct, for the purchase of the  
5 stock.

6 Q So you don't have any independent  
7 knowledge of looking at this document?

8 A No, I do not.

9 Q And what it means?

10 A No.

11 Q If you scroll down, look down a little, on  
12 the middle it says "wire transfer November 5th,  
13 2012," and the name "Fred Bauman." Do you know who  
14 Fred Bauman is?

15 A I just recently heard that name. I've  
16 never heard of him before, but recently heard that  
17 name through Diane Dalmy.

18 Q And what did Ms. Dalmy tell you?

19 A She just told me that she works with an  
20 attorney named Fred Bauman.

21 Q And when did that happen? That discussion  
22 you just referred to.

23 A This was after the subpoena. I had called  
24 her to ask her if she, you know, well, had heard  
25 anything or knew anything or had been in contact

1 with John and to see if, you know, she had any  
 2 inkling at all what was going on. And she didn't  
 3 have anything, really, to say.  
 4 Q And she mentioned Fred Bauman to you?  
 5 A Yeah, she mentioned Fred Bauman. I don't  
 6 remember in what capacity, but I remember the name.  
 7 Q And how did you know to call Ms. Dalmy?  
 8 A I found out who the attorney of record  
 9 was, I think, for La Paz, and called her, and, you  
 10 know, just in reference to all this stuff.  
 11 Q Do you see that it reflects a payment to  
 12 Fred Bauman for La Paz Mining on this spreadsheet on  
 13 Exhibit 157? If you look at the last column, it  
 14 says "negative \$1,000."  
 15 A Right.  
 16 Q Had you ever heard anything about Mr.  
 17 Bauman being paid in connection with La Paz Mining?  
 18 A No.  
 19 Q If you can turn to tab 12 and tab 13, I'm  
 20 going to mark both of those. Tab 12 can be marked  
 21 as Exhibit 158 and tab 13 marked as Exhibit 159.  
 22 MR. ANDERSON: I don't have anything under  
 23 tab 13 in my binder for some reason.  
 24 MR. SUNSHINE: It's blank?  
 25 MR. ANDERSON: It is. It's empty.

1 MR. SUNSHINE: My apologies.  
 2 BY MR. SUNSHINE:  
 3 Q Mr. Irizarry, do you have a tab 13?  
 4 A I do.  
 5 MR. ANDERSON: I'll just look on it.  
 6 MR. SUNSHINE: Appreciate it.  
 7 (SEC Exhibit Nos. 158 and  
 8 159 were marked for  
 9 identification.)  
 10 BY MR. SUNSHINE:  
 11 Q And for Exhibit 158 and 159, these are  
 12 similar ledgers for Braxton Resources and for  
 13 Clearpoint Resources. And I'll direct you to the  
 14 first line on Braxton Resources, and that's Exhibit  
 15 158, where it says "Dated April 16th, 2012." Under  
 16 "name" it says "Dhaliwal." Have you ever heard that  
 17 name before?  
 18 A I have never heard that name before.  
 19 Q The same question that I asked earlier  
 20 about investment. Do you have any understanding of  
 21 what that might be referring to?  
 22 A No.  
 23 Q And the same name appears for Clearpoint  
 24 Resources. You're never heard of Dhaliwal; is that  
 25 right?

1 A That's correct. Management fees are  
 2 incorrect on these documents.  
 3 Q Because for Braxton, how much did you  
 4 receive?  
 5 A \$2,000.  
 6 Q And these reflect \$3,000. If you can turn  
 7 to tab 8 of your binder, tab 8. And tab 8, the  
 8 document there can be marked as Exhibit 160.  
 9 (SEC Exhibit No. 160 was  
 10 marked for identification.)  
 11 Q And this appears to be an e-mail from Mr.  
 12 Irizarry to John at MetroWest dated October 10th,  
 13 2012. Mr. Irizarry, do you recognize this document?  
 14 A Yes.  
 15 Q What is it?  
 16 A It was a request to get an advance on the  
 17 money that was owed to me.  
 18 Q And can you tell me what else you remember  
 19 about that e-mail and why you were asking for an  
 20 advance?  
 21 A I was asking for an advance because I was  
 22 broke, but I don't remember anything else about it.  
 23 Q And you said: "Also, John, if you don't  
 24 mind, I will take an advance on the La Paz deal. I  
 25 could use 3K, but 2K is the max." What did you mean

1 by "but 2K is the max"?  
 2 A Well, he said he only had \$2,000.  
 3 Q Okay. So you understood that it was John  
 4 Briner who would set the maximum amount of what your  
 5 compensation would be?  
 6 A I'm sorry, can you repeat that.  
 7 Q Let me take a step back. The date on this  
 8 e-mail is October 10th, 2012. Had the La Paz deal  
 9 already happened at that point?  
 10 A I believe it did. No, no, I think --  
 11 wait. When was the La Paz signed? In November?  
 12 Q If you can turn back to Exhibit 154, which  
 13 is your tab 7, the first page reflects a wire  
 14 transfer to La Paz.  
 15 A Right.  
 16 Q For La Paz, for your compensation for La  
 17 Paz.  
 18 A Right. That was on 12/1/2011.  
 19 Q And this e-mail is dated October 10th,  
 20 2012?  
 21 A Right.  
 22 Q So what did you mean by "La Paz deal"?  
 23 A Well, the La Paz project.  
 24 Q So when you said "La Paz," you're  
 25 referring to all the issuers?

1 court reporter to mark this document on tab 5 as  
 2 Exhibit 164.  
 3 (SEC Exhibit No. 164 was  
 4 marked for identification.)  
 5 Q This is an e-mail chain that at the top of  
 6 the e-mail chain it says from Charles Irizarry to  
 7 John at MetroWest, dated June 25th, 2013. Do you  
 8 recognize this e-mail chain?  
 9 A Oh, yeah. This is after I called Mr.  
 10 Briner asking him what was going on, and he said  
 11 that he had to pull the registrations, he forgot, or  
 12 something to that effect. "Let me take care of that  
 13 right away."  
 14 And so he sent me one to sign, and then I  
 15 said, "Send the other two," and then I said, "Please  
 16 call me," because I was upset and I really was a  
 17 little dumbfounded as to why this would be going on,  
 18 and I couldn't get a hold of the guy.  
 19 Q So --  
 20 A So -- okay, go ahead.  
 21 Q No, that's fine.  
 22 A Well, it says here, "Okay, send the other  
 23 two," is in reference to he sent one and then I was  
 24 still waiting for the other two to sign. I wasn't  
 25 sure if they needed my signature and sent back to

1 him or what I needed to do with the document.  
 2 Q And the document you're referring to, what  
 3 was that?  
 4 A I guess it was -- I forgot the term for  
 5 it, but to hold the registration or cancel the  
 6 registration. I don't remember the technical name  
 7 for it.  
 8 Q So when you said "please call me," did you  
 9 have a call after that?  
 10 A I don't think I talked to John until --  
 11 until way after that. And then the conversation  
 12 was, you know, basically, you know, what, you know,  
 13 in strong language, "What's going on here? Why, you  
 14 know, why am I receiving letters from the SEC? Can  
 15 you explain to me?"  
 16 He said, "Oh, you know, something went  
 17 wrong with the paperwork. We just have to pull the  
 18 registrations. These companies aren't trading. So  
 19 once we do that, it will be fine." And that was the  
 20 gist of, you know, that conversation and probably  
 21 one other that I had with him in reference to that.  
 22 Q So did you ultimately give your approval  
 23 for the documents you just described?  
 24 A Yes. He said that they had to be signed  
 25 and entered so that registrations could be reversed

1 or pulled -- I forgot the term for it -- and the  
 2 companies would then just be reverted back.  
 3 Q If you can turn to tab 4, which I'm asking  
 4 the court reporter to mark as Exhibit 165.  
 5 (SEC Exhibit No. 165 was  
 6 marked for identification.)  
 7 Q Well, this is a Form S-1 registration  
 8 statement that was filed for La Paz Mining Corp. Do  
 9 you recognize this document?  
 10 A Yes.  
 11 Q And was this the document that we talked  
 12 about earlier that you would have reviewed the  
 13 approved for filing?  
 14 A Yes.  
 15 Q Looking at the first page where it says  
 16 "Fred Bauman," I know we referenced his name  
 17 earlier, but seeing this document, does that bring  
 18 to mind any recollection about who Fred Bauman is?  
 19 A Where is it on this page?  
 20 Q It's in the middle of the page where it  
 21 says "copies of all communications to Fred Bauman,  
 22 Esquire."  
 23 A Yeah. I still don't know who he is.  
 24 Q Okay. And turning to page 2, I'm reading:  
 25 "Subject to completion, dated September 25th, the

1 stock of La Paz Mining Corp, 10,000 shares of common  
 2 stock" -- excuse me -- "10 million shares of common  
 3 stock." The second sentence of the paragraph below  
 4 that says: "The company will not receive any of the  
 5 proceeds from the sale of these shares."  
 6 Now, is that a fact that you were aware of  
 7 at the time that you reviewed this?  
 8 A No, I was not aware of that.  
 9 Q And do you have any understanding of who  
 10 might have received the proceeds from the sale of  
 11 the stock as reflected in the S-1?  
 12 A I do not.  
 13 Q Do you believe that you would have  
 14 received the proceeds from the sale of the stock  
 15 referred to here in the S-1?  
 16 A No.  
 17 Q Turning to page 6, the numbers after this  
 18 are at the top of the page where it says "page,"  
 19 like, for example, 2 of 33. Are you there yet?  
 20 A Yes.  
 21 Q Okay. Turning to page 7, if you look at  
 22 the second sentence, all caps on that page, it  
 23 reads: "We are controlled by Mr. Charles Irizarry,  
 24 sole executive officer-director, and as such, he may  
 25 have no effective voice in our management." And

1 then the second sentence in all caps below that  
2 says: "We are solely governed by Mr. Charles  
3 Irizarry, our sole executive officer and director,  
4 and, as such, there may be significant risk to the  
5 company of a conflict of interest."

6 Now, having read that and us having  
7 discussed that these companies, the issuers are  
8 brought to the package and many of the decisions  
9 were already made, do you think that that's in  
10 conflict with the statement that says that you are  
11 solely governing these companies?

12 A I'm sorry, I don't understand the  
13 question.

14 Q The question is: These statements, in  
15 substance, reflect that you are the executive who is  
16 solely in control of them, but we talked about that  
17 you didn't know who bought the mineral claim, you  
18 didn't pick the auditors, you didn't pay the bills,  
19 you didn't have access to the bank account. Do you  
20 see a conflict between those two?

21 MR. SUNSHINE: Mr. Anderson, is there an  
22 issue of privilege? Because you shouldn't be, like,  
23 talking during testimony to the client.

24 MR. ANDERSON: I think we're going to  
25 invoke the Fifth on that question. I'll let him do

1 calling for a legal conclusion for which Mr.  
2 Irizarry has no capacity or ability to answer.

3 BY MR. SUNSHINE:

4 Q Okay, well, before the break Mr. Irizarry  
5 invoked his right against self-incrimination under  
6 the Fifth Amendment in response to the question. So  
7 in light of that, in light of him invoking his Fifth  
8 Amendment rights, I'll now say to you that I am not  
9 authorized to compel you to give evidence or  
10 testimony as to which you assert your privilege  
11 against self-incrimination, and I have no intention  
12 of doing so.

13 In addition, I do not have the authority  
14 to compel your testimony by granting you immunity  
15 from prosecution. Any question that I ask hereafter  
16 will be with the understanding that if you wish to  
17 assert your privilege, you need merely state that  
18 you refuse to answer on the grounds that your answer  
19 may tend to incriminate you.

20 In other words, you're not compelled to  
21 answer any further questions if you believe that a  
22 truthful answer to the question would tend to show  
23 that you committed a crime and you wish to assert  
24 your privilege against self-incrimination.  
25 Accordingly, if you answer any questions, you will

1 that.

2 MR. SUNSHINE: I think Mr. Irizarry can do  
3 that.

4 MR. ANDERSON: That's fine.

5 BY MR. SUNSHINE:

6 Q So you heard the question. Are you  
7 invoking your Fifth Amendment rights against --

8 A Mr. Sunshine, I'll invoke my Fifth  
9 Amendment right, please.

10 Q All right. How about this. Let's take a  
11 five-minute break, and we'll resume at 3:40. So  
12 going off the record at 3:35 p.m., December 10th,  
13 2013 Eastern Standard Time.

14 (A brief recess was taken.)

15 MR. SUNSHINE: Going back on the record at  
16 3:47 p.m. Eastern standard time, December 10th,  
17 2013.

18 BY MR. SUNSHINE:

19 Q Mr. Irizarry, during the break, we did not  
20 have any substantive discussion about your testimony  
21 today; correct?

22 A Correct.

23 MR. ANDERSON: And just to clarify, I'd  
24 like to add an objection on the record that the last  
25 question that you asked before we took our break was

1 be doing so voluntarily. Do you understand that?

2 A Yes.

3 Q Now, with respect to the question that I  
4 asked you with regard to the statement in the La Paz  
5 Mining S-1 that speaks of your control over La Paz  
6 Mining, if I ask you the same question with respect  
7 to the other two issuers, Braxton and Clearpoint,  
8 would you invoke your right against  
9 self-incrimination under the Fifth Amendment?

10 A Yes.

11 Q Okay. Turning to page 4 of Exhibit 165  
12 and tab 4, five paragraphs down toward the middle it  
13 reads: "We are not a 'blank check company,' as we do  
14 not intend to participate in a reverse acquisition  
15 or merger transaction. Securities laws define a  
16 'blank check company' as a development stage company  
17 that has no specific business plan or purpose or has  
18 indicated that its business plan is to engage in a  
19 merger or acquisition with an unidentified company  
20 or companies, or other entity or person."

21 So my question to you is: Did La Paz  
22 Mining have any intention of engaging in a reverse  
23 merger?

24 A To my knowledge, the companies were set up  
25 already with projects allocated to them, the

1 five-minute break. I think we're nearly through, so  
2 definitely under half an hour left. So let's go off  
3 the record at 3:56 p.m. Eastern Standard Time,  
4 December 10th, 2013.

5 (A brief recess was taken.)

6 MR. SUNSHINE: We're going back on the  
7 record at 4:02 p.m. Eastern Standard Time, December  
8 10th, 2013.

9 MR. SUNSHINE: And Mr. Irizarry, during  
10 our break we did not have any substantive discussion  
11 about your testimony today; correct?

12 THE WITNESS: Correct.

13 MR. SUNSHINE: Okay. We have no further  
14 questions at this time. We may, however, call you  
15 again to testify in this investigation. Should this  
16 be necessary we will contact your counsel. Do you  
17 wish to clarify anything or add anything to the  
18 statements that you've made today?

19 THE WITNESS: Yes.

20 MR. SUNSHINE: What would you like to  
21 clarify?

22 MR. ANDERSON: Can we go off the record  
23 for a minute? Actually, can we just have a  
24 one-minute break?

25 MR. SUNSHINE: Okay, we'll take a

1 one-minute break. Going off the record at  
2 4:02 p.m., December 10th, 2013.

3 (A brief recess was taken.)

4 MR. SUNSHINE: We're back on the record at  
5 4:03 p.m. Eastern Standard Time, December 10th,  
6 2013. And Mr. Irizarry, during this break we did  
7 not have any substantive discussion about your  
8 testimony today; correct?

9 THE WITNESS: Correct.

10 MR. SUNSHINE: And I believe the question  
11 pending was do you wish to clarify anything or add  
12 anything to the statements that you have made today?

13 THE WITNESS: Yes. I would like to  
14 clarify and repeat something that I said earlier in  
15 reference to my communications with Sandy Vargas. A  
16 lot of the documentation I received were signature  
17 pages including, the S-1. I didn't see the full S-1  
18 or review the S-1 or any part of the S-1 until way  
19 afterwards.

20 This happened quite a bit in issuance --  
21 issues with De Joya Griffith -- Griffin, De Joya  
22 Griffin. Any type of requests that I made regarding  
23 these mining projects themselves for, you know, due  
24 diligence, valuation reports, geological, things of  
25 that nature, it was kind of a hopscotch approach to

1 my request. "Okay, let me jot that down. I'll get  
2 back to you later. Let me talk to John. I'll get  
3 that information to you."

4 Eventually we were onto another subject or  
5 another signature page or something else that  
6 needed, you know, complete urgency, right away, and  
7 that was just forgotten or just left out on purpose.  
8 So I just wanted to go on the record with that.

9 BY MR. SUNSHINE:

10 Q Okay. So what you're saying is not quite  
11 consistent with some of your testimony earlier. We  
12 can go through in detail, if necessary. But first,  
13 if you could explain more of what you mean by what  
14 happened with De Joya Griffith, I think that would  
15 be helpful.

16 A Well, I just, in getting e-mails or  
17 requests for signatures from Mr. Briner's office, I  
18 didn't often get the full documentation. Sometimes  
19 it was just the signature page. So I mentioned that  
20 earlier in my testimony. So I just wanted to  
21 reflect on that and repeat that. And, you know, the  
22 signature pages or parts of it, parts of the  
23 documents, weren't always made available to me at  
24 the time of my request.

25 Q Now, you started this, what you just said,

1 saying that this may have included the S-1  
2 registration statement, you didn't review it until  
3 sometime later. What did you mean by that?  
4 A Well, I got the signature pages for the  
5 S-1 signed and sent it in, and then I didn't review  
6 the full S-1 until later on. And even then, I  
7 didn't read through it verbatim.

8 Q Okay, so how much later do you think you  
9 reviewed it after you signed the signature pages?

10 A I don't recall.

11 Q Could it have been one day?

12 A No. Much more time than that.

13 Q Could it have been one year?

14 A Maybe a few weeks.

15 Q Okay. And after -- a few weeks after you  
16 signed it, you said you did review, then, the full  
17 document; is that correct?

18 A Not the full document, but I received the  
19 full document.

20 Q So you had the full document available to  
21 you, but you did not read it verbatim, as you said?

22 A A lot of it I didn't understand.

23 Q And did you talk to anybody about the  
24 parts that you didn't understand?

25 A Mr. John Briner.

1 Q And can you give an example of the parts  
 2 that you didn't understand?  
 3 A I can't give you an example. I just don't  
 4 recall that at the moment, but I can tell you that I  
 5 didn't really get any help with that when I made the  
 6 request.  
 7 Q So let me ask you this, if you did not  
 8 understand certain parts of the S-1 and you asked  
 9 Mr. Briner for help in understanding it, and did not  
 10 get a satisfactory answer, why did you allow the S-1  
 11 to be filed?  
 12 A A lot of the times he would say, "Well,  
 13 this is just the way that we have to structure it.  
 14 It's got to be like this. It's got to reflect this,  
 15 or it's got to -- this is the way that it's done.  
 16 So we want to just get it done. That way, you know,  
 17 we can move on, get a trading symbol and, you know,  
 18 take advantage of this project before" -- you know,  
 19 whatever. It was always a quirky answer.  
 20 Q And my question is: Why did you accept  
 21 that? Why did you accept that quirky answer?  
 22 A Well, I didn't really accept it, you know,  
 23 but I felt that if I didn't comply, I would never  
 24 get paid.  
 25 Q Okay. So part of this was to ensure that

1 A I thought it would just go back in the  
 2 company, and then it would be allotted to investors  
 3 that would, you know, come in to invest in this  
 4 company, the finance people that it had lined up, or  
 5 whatever.  
 6 Q All right. Is there anything else that  
 7 you want to clarify for the record today?  
 8 A No.  
 9 MR. SUNSHINE: Mr. Anderson, is there  
 10 any -- do you wish to ask any clarifying questions?  
 11 I'm sorry, Mr. Anderson, I can't see you.  
 12 MR. ANDERSON: Oh, sorry. I'm thinking.  
 13 Just one.  
 14 MR. ANDERSON: Mr. Irizarry, did you rely  
 15 on Mr. Briner because he was an attorney to advise  
 16 you about what was necessary to get you through  
 17 these initial processes with these issuers?  
 18 THE WITNESS: Yes.  
 19 MR. ANDERSON: I have no further  
 20 questions.  
 21 MR. SUNSHINE: Okay. We are off the  
 22 record at 4:12 p.m. Eastern Standard Time,  
 23 December 10th, 2013.  
 24 (Whereupon, at 4:12 p.m., the examination  
 25 was concluded.)

1 their compensation, you were paid for the services  
 2 that you did provide. Is that what you're saying?  
 3 A Yes. Yes. I don't know, kind of I was  
 4 just always kind of on the hook. "Well, we've got  
 5 to get this done. This is how we're going to do it.  
 6 Let's get it done so you can get paid."  
 7 Q And that's what Mr. Briner would tell you  
 8 in response to your concerns?  
 9 A Not always. Not always, but that has  
 10 happened.  
 11 Q What else would he say in response to your  
 12 concerns?  
 13 A That everything's on the up-and-up, and  
 14 that, you know, he wouldn't compromise anything,  
 15 that he's an attorney, and that, you know, I have no  
 16 reason to be worried about anything.  
 17 Q But separate from the registration  
 18 statement that you testified about earlier, you did  
 19 understand that a control block of shares was being  
 20 put in your name; is that correct?  
 21 A Yes. Yes, but I also understood that to  
 22 be on paper; that I would never really receive that  
 23 control block in a stock cert.  
 24 Q And who did you think would ultimately  
 25 receive that control block?

1 PROOFREADER'S CERTIFICATE  
 2  
 3 In The Matter of: LA PAZ MINING CORP.  
 4 Witness: Charles Irizarry  
 5 File Number: NY-08922-A  
 6 Date: Tuesday, December 10, 2013  
 7 Location: Salt Lake City, UT  
 8  
 9 This is to certify that I, Donna S. Raya,  
 10 (the undersigned), do hereby swear and affirm that  
 11 the attached proceedings before the U.S. Securities  
 12 and Exchange Commission were held according to the  
 13 record and that this is the original, complete, true  
 14 and accurate transcript that has been compared to  
 15 the reporting or recording accomplished at the  
 16 hearing.  
 17  
 18 \_\_\_\_\_  
 19 (Proofreader's Name) (Date)  
 20  
 21  
 22  
 23  
 24  
 25

# **EXHIBIT**

**3**

Page 1

1 UNITED STATES SECURITIES AND EXCHANGE COMMISSION  
2  
3 In the Matter of:            )  
4                                    ) File No. NY-08922-A  
5 LA PAZ MINING CORP.        )  
6,  
7 WITNESS: Wayne Middleton  
8 PAGES: 1 through 106  
9 PLACE: Securities and Exchange Commission  
10 15 West South Temple, Suite 1800  
11 Salt Lake City, Utah 84101  
12 DATE: Wednesday, December 11, 2013  
13  
14 The above entitled matter came on for hearing,  
15 pursuant to notice, at 1:11 p.m.  
16  
17  
18  
19  
20  
21  
22  
23  
24 Diversified Reporting Services, Inc.  
25 (202) 467-9200

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1 APPEARANCES:  
2  
3 On behalf of the Securities and Exchange Commission:  
4 JASON SUNSHINE, ESQ. (Via Videoconference)  
5 LARA MEHRABAN, ESQ. (Via Videoconference)  
6 Securities and Exchange Commission  
7 Division of Enforcement  
8 New York Regional Office  
9 Rookfield Place  
10 200 Vesey Street, Suite 400  
11 New York, New York 10281-1022  
12  
13 On behalf of the Witness:  
14 JOHN W. ANDERSON, ESQ.  
15 Anderson Hinkins  
16 881 West Baxter Drive  
17 South Jordan, Utah 84095  
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C O N T E N T S

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P R O C E E D I N G S

1  
2 MR. SUNSHINE: We are going on the record  
3 at 1:11 p.m. Eastern Standard Time, December 11th,  
4 2013.  
5 Please raise your right hand. Do you  
6 swear or affirm to tell the truth, the whole truth  
7 and nothing but the truth?  
8 THE WITNESS: Yes.  
9 Whereupon,  
10 WAYNE MIDDLETON  
11 was called as a witness and, having been first duly  
12 sworn, was examined and testified as follows:  
13 EXAMINATION  
14 BY MR. SUNSHINE:  
15 Q Please state and spell your name for the  
16 record.  
17 A Wayne Middleton, W-a-y-n-e  
18 M-i-d-d-l-e-t-o-n.  
19 Q My name is Jason Sunshine, and to my left  
20 is Lara Mehraban. We are officers of the Commission  
21 for the purposes of this proceeding. This is an  
22 investigation by the SEC in the matter of La Paz  
23 Mining Corp., number NY-8922, to determine whether  
24 there have been violations of certain provisions of  
25 the federal securities laws.

1 Q You don't know the exact percentage?  
 2 A I don't have that in front of me, no.  
 3 Q Is it under 50 percent?  
 4 A Yes.  
 5 Q Are you president, CEO, director of any  
 6 other companies other than Immobiliare or the three  
 7 companies you identified before?  
 8 A No.  
 9 Q Do you have any history in the mining  
 10 industry?  
 11 A I do not.  
 12 Q Outside of the companies that you  
 13 identified and Immobiliare, are there any other  
 14 companies that you are involved with?  
 15 A Not at this time.  
 16 Q And that would cover the time from your  
 17 MBA to the present?  
 18 A Yeah. Yes.  
 19 Q And as you probably have seen from the  
 20 subpoena that we issued, we identified two  
 21 companies, so I want to confirm your relationship to  
 22 those two companies. The first one is PRWC Energy,  
 23 Inc. Were you the CEO, owner and director of that  
 24 company?  
 25 A Yes, I was a director of the PRWC, as well

1 as Canyon Minerals.  
 2 Q That was my second question. So I may  
 3 refer to these companies together as "issuers," so  
 4 just for the sake of efficiency. If anything that I  
 5 ask does not pertain to both of those companies,  
 6 PRWC and Canyon, then tell me and I will break up  
 7 the question for each. But for the sake of  
 8 efficiency, I'd like to just call them "issuers."  
 9 Do you agree with that?  
 10 A Yes. Yes.  
 11 Q So how did you become the director of the  
 12 issuers?  
 13 A Well, I met John Briner a few years ago,  
 14 and, you know, for a brief time I spoke with him  
 15 generally about companies. And, you know, a year,  
 16 maybe a year and a half later after I met him, I was  
 17 asked to come on as a director for both Canyon  
 18 Minerals and PRWC.  
 19 Q And roughly when did you first meet Mr.  
 20 Briner?  
 21 A I think it was 2011.  
 22 Q And how did you come to meet Mr. Briner?  
 23 A I was in Vancouver and I met him through  
 24 Charles Irizarry.  
 25 Q And what were the circumstances that

1 prompted you to meet Mr. Briner through Mr.  
 2 Irizarry?  
 3 A Mr. Irizarry was a longtime associate of  
 4 Mr. Briner, and beyond that, I guess I don't know.  
 5 It seemed like the prudent thing to do, to meet him.  
 6 Q Why would it be a prudent thing to meet  
 7 him?  
 8 A Well, if we were in the process of getting  
 9 Immobiliare going, then, you know, meeting different  
 10 people in the securities industry, attorneys and so  
 11 forth, was -- seemed like a prudent thing to do.  
 12 Q So the meeting was in some way related to  
 13 get Immobiliare moving forward? Is that what you're  
 14 saying?  
 15 A Yes and no. We were in Vancouver anyway,  
 16 and my parents had lived in Vancouver, and, you  
 17 know, I was in Vancouver, I don't know. And Mr.  
 18 Irizarry was also going there, so it seemed like a  
 19 good idea to have a brief meeting with Mr. Briner.  
 20 Q So the meeting was at Mr. Irizarry's  
 21 prompting? Did he say anything to the effect of,  
 22 "You should meet Mr. Briner"?  
 23 A Yeah, uh-huh. Yes.  
 24 Q And how do you know Mr. Irizarry?  
 25 A I met him previously. We were at a

1 business conference and we just started talking, and  
 2 met that way.  
 3 Q What business conference did you meet him  
 4 at?  
 5 A I don't remember the name of it. It was a  
 6 Las Vegas business conference on raising money, I  
 7 think.  
 8 Q Raising money from whom?  
 9 A You know, I don't remember the details of  
 10 that. I don't remember that conference. It was a  
 11 one-day conference, and I don't remember.  
 12 Q And when was that conference?  
 13 A Maybe four years ago.  
 14 Q So you met Mr. Irizarry about four years  
 15 ago?  
 16 A Probably. Probably four years ago, three  
 17 to four years ago.  
 18 Q So now going back to when you met Mr.  
 19 Briner in Vancouver, you testified that you think  
 20 that was about sometime in 2011?  
 21 A Yes.  
 22 Q And were you already in Vancouver at the  
 23 time and Mr. Irizarry then said, "Hey, I'm going to  
 24 visit Mr. Briner. You should meet him as well"? Or  
 25 did you travel with Mr. Irizarry? Or can you

Page 21

1 A Yes. Yes.  
2 Q And what did he -- what terms of  
3 employment or engagement did he discuss with you?  
4 What were you going to get out of it?  
5 A So I came on as a consultant, and I  
6 initially got \$2,000 to sign on. The whole  
7 experience would be that I would get these through  
8 the registration process, and because there would  
9 need to be equipment purchased and funds for various  
10 operating reasons, that that money would be able to  
11 best be obtained through getting a trading symbol,  
12 raising money through that so that it could be  
13 raised for the company to operate.  
14 So, you know, with that, the arrangement  
15 was that I would be a consultant. I signed a  
16 consultant agreement for each company, that I would  
17 have an initial \$2,000, and get through the  
18 registration process to get a trading symbol. And  
19 then upon getting the symbol, I would get another  
20 \$8,000, so a total of \$10,000 I'd get through that.  
21 And then at that point we'd renegotiate to  
22 figure out what the arrangement would be for me to  
23 run the company. The ultimate goal was to get a  
24 trading symbol in order to raise money for the  
25 companies, and at that point we could start to

Page 22

1 operate.  
2 Q You testified a moment ago that your  
3 experience had made you well-suited to handle the  
4 issuers. Can you tell me what in your experience is  
5 well-suited to do that?  
6 A Well, I got a minor in chemistry when I  
7 was at the university. I think I understand that  
8 somewhat. Dealing with employees and renters and  
9 that kind of thing seemed like it would lend the  
10 same skill set to operating a very small mining  
11 concern.  
12 Q But you didn't have any mining experience;  
13 is that right?  
14 A Mining, no.  
15 BY MS. MEHRABAN:  
16 Q What about experience with public  
17 companies?  
18 A I don't have experience with public  
19 companies, no, other than Immobiliare, which is not  
20 a public company as of now.  
21 BY MR. SUNSHINE:  
22 Q So when Mr. Briner proposed this to you,  
23 what was your response?  
24 A Well, it seemed like a logical thing to  
25 do. You know, he said that they've got a number of

Page 23

1 different mining opportunities and properties, and  
2 they can't run them all, which seemed fairly  
3 reasonable to me, so they would need an executive  
4 that would be able to overlook the operations for  
5 these companies.  
6 So whether it's one or both would work out  
7 in terms of financing and/or getting the trading  
8 symbol is hard to know at first, but the goal was  
9 that one, and hopefully both, could get a trading  
10 symbol, raise capital, buy or lease equipment and  
11 start operating in that capacity.  
12 Q Did Mr. Briner already have the mineral  
13 claims set out for the issuers at the time that he  
14 asked you to come on board?  
15 A I think he did.  
16 Q You said, and we briefly touched on this,  
17 but what was your understanding of what the business  
18 of the issuers were?  
19 A Who do you mean by "the issuers" again?  
20 Q The issuers are PRWC Energy and Canyon  
21 Minerals.  
22 A Oh, yeah. They own some mineral rights  
23 and would operate those, whether it's mining gold or  
24 whatever, and sell those in the market.  
25 Q Do you know why Mr. Briner asked you to

Page 24

1 serve as CEO of two companies as opposed to one?  
2 A I don't know why two. I think it was -- I  
3 don't know.  
4 Q Did you know that Mr. Irizarry was given a  
5 similar offer with respect to other issuers?  
6 A Yeah. Yes.  
7 Q Did you know how many issuers Mr. Irizarry  
8 was CEO of?  
9 A I don't. I don't exactly.  
10 Q Do you have any knowledge of it?  
11 A I think he has three others.  
12 BY MS. MEHRABAN:  
13 Q Did you have a discussion with Mr.  
14 Irizarry before you accepted Mr. Briner's offer?  
15 A Yeah. He said he's worked with Mr. Briner  
16 for a number of years, and he's had previous  
17 experience with him. And not everything works out  
18 perfectly, but it, you know, seemed like a good  
19 thing to do, based on his knowledge and his previous  
20 experience with Mr. Briner.  
21 Q Did he tell you anything else?  
22 A Not necessarily. What do you mean  
23 specifically?  
24 Q Is there anything else you recall about  
25 your conversation?

1 worked with him, they work with someone else, and  
2 anything involving the company would have to go to  
3 these other people. And he had nothing further to  
4 say about the issuers.

5 Q Who were these other people?

6 A It was a different law firm that I don't  
7 recall right at the moment, I was not be able to get  
8 through to them, either.

9 BY MR. SUNSHINE:

10 Q And when was this conversation?

11 A This was maybe April or May of this year.

12 Q And you don't recall who it was you  
13 contacted, the new law firm that had the files? You  
14 don't recall who they were?

15 A No. I believe it was someone in their  
16 same office building that was on a different floor.

17 Q Okay. Turning back to the issuers, what  
18 did you understand your responsibility was to the  
19 issuers?

20 A Well, to sign paperwork, and the initial  
21 responsibility was essentially more of a formality  
22 to set up companies. They would handle paperwork  
23 for the companies. They would handle, you know,  
24 various things that needed to be done. And then  
25 once there's a trading symbol, I could go meet

1 different entities or people that would invest in  
2 the funding of the equipment, or whatever, so that  
3 we could get operational. And my primary  
4 responsibility would be to run the mining side of  
5 it, to make that happen.

6 Q And I think we touched on this earlier,  
7 but when you signed on, what was your understanding  
8 -- well, I'm going to take a step back. Do you know  
9 who Jervis Explorations is?

10 A I don't.

11 Q Do you know who the issuers purchased  
12 their mining claims from?

13 A My understanding is that was transferred  
14 from Jervis Explorations, and I don't have any other  
15 knowledge of what that is.

16 Q So you were aware of Jervis Explorations  
17 at the time you signed on with the issuers, but you  
18 don't know anything further about them. Is that  
19 your testimony?

20 A No. I was not aware of them at the time,  
21 but I later got paperwork that would transfer a  
22 property into each different issuer, and I believe  
23 that was transferred from Jervis Explorations. I  
24 don't know anything about Jervis Explorations other  
25 than that, though.

1 Q So you didn't negotiate the purchase of  
2 the mineral claim with Jervis Explorations?

3 A No, no.

4 Q Do you know who did?

5 A I don't.

6 Q Do you know who determined which mineral  
7 claim the issuers would purchase?

8 A I don't.

9 Q It wasn't you?

10 A No.

11 Q Do you have any understanding of who would  
12 have done that?

13 A No.

14 Q Could it have been John Briner?

15 MR. ANDERSON: Objection; calls for  
16 speculation.

17 BY MR. SUNSHINE:

18 Q You can answer.

19 MR. ANDERSON: You can answer.

20 A It could have been John Briner, I don't  
21 know.

22 BY MR. SUNSHINE:

23 Q So you have no knowledge whatsoever of who  
24 it was that determined which mineral claim the  
25 issuers would purchase?

1 A No.

2 BY MS. MEHRABAN:

3 Q Who, other than John Briner, could it have  
4 been?

5 MR. ANDERSON: Objection; calls for  
6 speculation. You can answer.

7 A I can't even speculate. I'd have to open  
8 a phone book, I guess. I don't know who that would  
9 be.

10 Q (By Ms. Mehraban) Well, you were the  
11 president of the issuers; right? The control  
12 person. The sole control person; right?

13 A Yes.

14 Q Okay, so did you ask anyone?

15 A John Briner said that he had a client, and  
16 that's where the -- that's where the claim would be  
17 from.

18 BY MR. SUNSHINE:

19 Q Do you know who the client was?

20 A I don't.

21 Q Did you ever ask?

22 A I did.

23 Q You did ask?

24 A Yes.

25 Q And what was the response?

1 A They would get back to me.  
 2 Q They never got back to you?  
 3 A No.  
 4 Q And the "they," did you ask John Briner  
 5 himself?  
 6 A No, I asked one of his assistants, I  
 7 think, and I guess I don't recall which conversation  
 8 I had with which assistant. There are two  
 9 assistants, and I just don't remember which one I  
 10 asked what. But they were going to get back to me  
 11 on a number of things, including that, and never  
 12 did.  
 13 Q What was your understanding of the mineral  
 14 claim that was purchased by the issuers? Do you  
 15 know what it was for?  
 16 A Well, again, that was one of the things  
 17 that I was waiting to hear back from them on, what  
 18 exactly is it. You know, what are the assay  
 19 amounts? What's the geology report? You know, where  
 20 is it exactly? And I never got any of those  
 21 details.  
 22 Q And those are the questions you asked when  
 23 you signed on; is that right?  
 24 A Among other things, yes.  
 25 Q What other things did you ask about?

1 the money up?  
 2 A And again, this is the same conversation.  
 3 They said that they had a client that, you know, and  
 4 I'm assuming that would be the same person. That  
 5 was my understanding.  
 6 Q So it's fair to say that you understood  
 7 that a client of John Briner's was financing the  
 8 issuers that you were CEO of?  
 9 A Yes.  
 10 BY MS. MEHRABAN:  
 11 Q I'm sorry, this is the same client that's  
 12 putting the mining claim, that had the mining claim?  
 13 A Yes, I believe so.  
 14 BY MR. SUNSHINE:  
 15 Q Just so I'm clear, you understood that the  
 16 client owned a mining claim and then was also  
 17 putting up the money for the issuers at the same  
 18 time?  
 19 A I don't know that for sure. I never saw  
 20 any paperwork, but that was my understanding.  
 21 Q And did you understand that you were the  
 22 owner of stock of the issuers?  
 23 A The way they explained it, I got some  
 24 paperwork, and I actually kicked it back to them.  
 25 But the way they explained it was that money had

1 A Well, I mean, just what we've discussed  
 2 today, you know, how things would operate, you know,  
 3 what the sequence of things would be.  
 4 Q So, I mean, had you visited the site where  
 5 the claims were?  
 6 A No.  
 7 Q Was there any other due diligence that you  
 8 had conducted at the time that you signed on with  
 9 respect to the mineral claims?  
 10 A No. I was, however, told that these were  
 11 valued claims. They were projects of merit, and  
 12 that they were financially feasible and could be  
 13 operated relatively quickly.  
 14 Q And who told you that?  
 15 A That was John Briner, I believe, either  
 16 that or one of his assistants at the time I was  
 17 signing on.  
 18 Q Now, the issuers were each capitalized  
 19 with \$30,000 cash in exchange for the purchase of  
 20 stock. Do you know who put up the money for the  
 21 stock purchase?  
 22 A I don't.  
 23 Q Was it you?  
 24 A No.  
 25 Q Do you have any understanding of who put

1 been put up and that it would be transferred into my  
 2 name, and then later distributed on a wider offering  
 3 when it came to that point.  
 4 Q Okay, so this touches on -- was that your  
 5 understanding of the offering that's reflected in  
 6 the S-1 registration statements?  
 7 A I don't know what you mean.  
 8 Q Well, you described stock being put into  
 9 your name and then later distributed.  
 10 A Yes.  
 11 Q And do you know what an S-1 registration  
 12 statement is?  
 13 A I do.  
 14 Q What is it?  
 15 A An S-1 is an offering registration. It's  
 16 -- it would be filed with the SEC in preparation to  
 17 sell securities, explain the business and so forth.  
 18 Q And the securities that you just said that  
 19 were explained to you were put in your name, did you  
 20 understand that those were the securities that were  
 21 going to be sold pursuant to the S-1 registration  
 22 statements for the issuers?  
 23 A Yes.  
 24 Q Can you tell me how your compensation was  
 25 determined?

1 A Not really. They made an offer, like I  
2 said, \$2,000 to sign on, another \$8,000 per company  
3 when it was -- when it had obtained a trading  
4 symbol. And at that point we would renegotiate the  
5 exact arrangement for employment. And I may or may  
6 not stay on. I may or may not operate it, but that  
7 was the initial hope by both parties, I believe.

8 Q But do you know who was paying you the  
9 \$2,000 that you just described?

10 A No.

11 Q Do you know how it was determined that the  
12 number should be \$2,000?

13 A No.

14 Q Did you believe -- so you have no  
15 understanding of whose money you were being paid  
16 with; is that correct?

17 A That's correct.

18 Q Do you believe it could have been the  
19 issuers' money?

20 A What do you mean by that?

21 Q Was it the company that was paying you,  
22 the issuers?

23 A I suppose.

24 Q You don't know?

25 A I don't know who the client is. I think

1 A I assume it was MetroWest Law, but I don't  
2 know.

3 Q How were the bills for the issuers paid?

4 A They were paid through MetroWest Law. They  
5 had a -- I forget what you call it exactly, where  
6 the attorney holds the funds for a client. Yeah,  
7 they were in charge of that. In theory, I was  
8 authorizing payments. There were only a few brief  
9 things: One is the acquisition of the land. Another  
10 is the payment for audit. Maybe there was another  
11 one, too, but there not a lot of transactions.

12 Q And why do you say "in theory"?

13 A Say that again.

14 Q You just said, "In theory, I was  
15 authorizing payments." Why do you say that?

16 A Well, I don't know. Maybe I misspoke.

17 Q Well, what you would say, then?

18 A It was my understanding that I would  
19 authorize payments, and, you know, if there were  
20 other payments, I don't know, but I was also not  
21 writing the checks.

22 Q Well, let's just take this. There's a  
23 payment in connection with incorporation --

24 A Correct.

25 Q -- to establish the issuers?

1 there's different ways of asking me who the client  
2 is, and I never knew. I don't know now. I have no  
3 idea who the client would be.

4 BY MS. MEHRABAN:

5 Q Do you know who owns or controls Jervis  
6 Explorations?

7 A I've only seen it briefly on a line that  
8 acquired the property, and that was -- that's the  
9 extent of my knowledge of Jervis Exploration.

10 BY MR. SUNSHINE:

11 Q Do you know who is the person that hired  
12 the accountant to do the audit for the S-1  
13 registration statements for the issuers?

14 A I believe of that MetroWest.

15 Q So you didn't look for auditors for the  
16 issuers; is that accurate?

17 A That -- yeah, that would be accurate.

18 Q And with the S-1 registration statements  
19 there's also filed an attorney opinion letter. Did  
20 you hire the attorney that provided the opinion  
21 letter for the S-1 registration statements?

22 A There was a document I signed appointing  
23 an attorney to the companies, but I didn't -- I did  
24 not hire the attorney, no.

25 Q So do you know who selected the attorney?

1 A Right.

2 Q Did Mr. Briner, or someone MetroWest, ask  
3 for your authorization to make that payment?

4 A All those initial payments I authorized,  
5 yes.

6 Q And so those payments were made after you  
7 signed on as CEO?

8 A I believe so.

9 Q Do you know if they were? Or were they or  
10 were they not?

11 A Well, I did write check, and I believe  
12 they were paid.

13 Q And where does that belief come from?

14 A Well, you know, I think the documentation  
15 shows that there was a purchase of land. I believe  
16 that payment was made. I don't know for sure. I  
17 know that auditors were paid most of what they were  
18 owed because I got a bill saying they were paid most  
19 of what they were owed.

20 Q Well, were you consulted in advance before  
21 any payment was made?

22 A For those, yes.

23 Q And "those" include what?

24 A The ones we've discussed, the auditors,  
25 the incorporation, the purchase of the land.

1 Q You did testify earlier that the claim was  
 2 already obtained before you had signed on.  
 3 A Yeah.  
 4 Q So when would you have authorized the  
 5 payment for the mineral claim if it was already  
 6 obtained before you were CEO?  
 7 A Well, that was -- maybe I didn't  
 8 understand the question, but that was payment made  
 9 for that claim.  
 10 Q You're saying the mineral claim was  
 11 purchased after you signed on as CEO?  
 12 A It was, I think, in conjunction with  
 13 setting up the company. It was -- there was a  
 14 payment made for the claim.  
 15 Q And you were consulted beforehand to  
 16 authorize the payment?  
 17 A Yeah, I believe.  
 18 Q And how did you -- how did that happen?  
 19 Let's take the mineral claim. Who consulted you?  
 20 A Well, I would get paperwork and I would  
 21 talk to one of the assistants and they would say,  
 22 "This needs to be signed so that money can be  
 23 transferred in exchange for the land."  
 24 "Okay."  
 25 Q And what paperwork are you referring to?

1 Q You were discussing earlier that and you  
 2 testified that you had some understanding that the  
 3 funds for the issuers were held in an account owned  
 4 by MetroWest the John Briner; is that correct?  
 5 A Correct.  
 6 Q Can you just further tell me what was your  
 7 understanding of that account?  
 8 A Well, it's, again, I don't remember what  
 9 they call it exactly, but it's an account that they  
 10 have in their possession, and they own this -- what  
 11 do you call it when you hold it in reserve?  
 12 MR. ANDERSON: I'm not going to tell you.  
 13 THE WITNESS: You tell me. Whatever --  
 14 MS. MEHRABAN: It doesn't matter, we're  
 15 just trying to get your memory. Don't worry about  
 16 it.  
 17 THE WITNESS: Okay. They held it in their  
 18 accounts. That's all I know. They sent me a  
 19 statement saying that, you know, there's a certain  
 20 amount in their accounts, and that's how much there  
 21 was. Beyond that, I don't know this.  
 22 Q Did you have access on your own accord to  
 23 that account?  
 24 A Well, the understanding was I could get a  
 25 statement of that at any time. We discussed that

1 A Well, I received different paperwork at  
 2 various times that would...  
 3 Q I'm talking about -- we're talking about  
 4 the mineral claim purchased by the issuers. What  
 5 paperwork are you referring to in connection with  
 6 that purchase?  
 7 A So any paperwork that you have not been  
 8 given, I do not have, the reason being is that there  
 9 were --  
 10 Q I'm asking from your memory.  
 11 A Okay. There's a piece of paper saying  
 12 that it transfers the mineral rights in exchange for  
 13 that money.  
 14 Q So is it -- are you testifying that your  
 15 signing of whatever paperwork you just described  
 16 constitutes your authorization to make a payment?  
 17 A Yes.  
 18 Q And how would that have happened with the  
 19 payment for the incorporation expense?  
 20 A In the same manner.  
 21 Q What documentation were you provided to  
 22 sign in connection with the incorporation expense?  
 23 A There was -- there were papers to sign to  
 24 set it up in the State of Nevada, and I remember  
 25 signing those papers to incorporate.

1 when I first signed up. I only saw one statement, I  
 2 believe, and that was after land had been purchased  
 3 and, you know, a few payments made, and there was  
 4 still \$18,000 in one account and about the same in  
 5 the other for each issuer.  
 6 Q The question was: Did you have access to  
 7 the accounts you just described?  
 8 A Not necessarily.  
 9 Q So no?  
 10 A That would be -- that would be a no.  
 11 Q And you said in the time that you were  
 12 CEO, you were provided with one statement?  
 13 A Of that, yes.  
 14 Q And just to further clarify this, you  
 15 couldn't just go to the account in the bank where  
 16 could held on your own accord and say, "I'm making a  
 17 withdrawal as the CEO of the issuers"; is that  
 18 correct?  
 19 A That's correct. I don't know which bank  
 20 it would be because it was a reserve account.  
 21 Again, I'm sorry my memory slips me with you call  
 22 it, but it was essentially a subaccount of the  
 23 MetroWest Law account.  
 24 Q And the bank statement that you just  
 25 referenced, did that identify the bank where the

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1 Q And why do you say that?  
2 A Because they do.  
3 Q Well, how do you know that?  
4 A I don't know that.  
5 Q So you don't know whether it's correct or  
6 not?  
7 A They look correct.  
8 Q And I'm asking where your understanding of  
9 their correctness comes from.  
10 A They look like the correct amounts, and  
11 the dates I have no idea, and everything else looks  
12 in line.  
13 Q Okay. Have you ever been shown a document  
14 like this during the time you were -- during your  
15 engagement with the issuers?  
16 A I don't recall, but maybe.  
17 Q Okay. Looking at the first transaction  
18 dated April 16th, 2012, under where it says "name"  
19 it reads "Dhaliwal." Have you ever heard that  
20 before?  
21 A I don't recognize Dhaliwal, come to think  
22 of it.  
23 Q Okay, you have no knowledge of who that  
24 might be referring to?  
25 A No.

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1 Q And where it says "investment," do you  
2 have any knowledge of what that term may be  
3 referring to?  
4 A Well, I assume that was from the client  
5 that we've talked about before of MetroWest Law.  
6 Q And why do you assume that?  
7 A Well, maybe I should not assume that. I  
8 just do.  
9 Q Okay. And the \$30,000, you testified  
10 earlier just now that it looked like the correct  
11 amount. Is that -- are you saying that that  
12 reflects the \$30,000 for the stock purchase?  
13 A Again, maybe I shouldn't assume, but I do,  
14 that that's the \$30,000 that came in to start the  
15 company.  
16 Q And we may have touched on this, but is  
17 there any other -- are you aware of any other  
18 financing in connection with the issuers?  
19 A No.  
20 Q And the transaction below that dated May  
21 1st, 2012?  
22 A Okay.  
23 Q Where it says underneath "Jervis," what do  
24 you understand that to be?  
25 A Well, again, I'm assuming that it is a

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1 check. CHQ, I'm assuming, is short for "check" to  
2 Jervis for the property purchase.  
3 Q If you can turn back to tab 5, and that's  
4 Exhibit 166, at the top where the agreement is dated  
5 May 31st, 2012.  
6 A Okay.  
7 Q Does that reflect the date that you signed  
8 on with the company? With the issuers, excuse me.  
9 A I don't remember.  
10 Q Sitting here today and looking at this  
11 document, what do you think it reflects?  
12 MR. ANDERSON: Objection; calls for  
13 speculation. You can answer.  
14 A I don't know. It looks correct, like the  
15 document that I signed.  
16 Q I mean, I just want to understand  
17 factually, the first date that you signed up with  
18 the issuers, what date do you think that was?  
19 A I don't remember the date. It was 2012,  
20 and you've got the documentation, I don't. Which  
21 one was it in?  
22 Q Well, do you think that it would have been  
23 before the date on the engagement agreement or  
24 after?  
25 A I don't know, but it was around that time

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1 period. I'm assuming it was before.  
2 Q If you can turn to tab 7, which is Exhibit  
3 168. Are on you tab 7?  
4 A Yes.  
5 Q And the top of the agreement says it's  
6 dated May 31st, 2012.  
7 A Okay.  
8 Q Now, you testified earlier that you were  
9 given this document and you were given the whole  
10 document, and you signed it. Do you think that that  
11 was the date that you signed it?  
12 A I don't recall. I don't know.  
13 Q Now, when earlier we asked you about how  
14 payments for the issuers were authorized, you said  
15 that it was upon the signing of the agreements; is  
16 that correct?  
17 A I believe so, yes.  
18 Q If you could turn back to tab 8, which is  
19 Exhibit 169, the second line that reflects the  
20 payment for the property is dated May 1st, 2012.  
21 That's 30 days before you signed the asset purchase  
22 agreement in Exhibit 168. So the question is: How  
23 could your authorization on a 30 days later be  
24 accurate when the ledger reflects the payment being  
25 on the 1st?

1 MR. ANDERSON: Objection; calls for  
2 speculation. You can answer.  
3 A It doesn't look like it is accurate.  
4 BY MR. SUNSHINE:  
5 Q Do you have any understanding of why it  
6 wouldn't be?  
7 A No.  
8 Q If you can turn to tab 9, I'm asking the  
9 court reporter to mark the document in tab 9 as  
10 Exhibit 170.  
11 (SEC Exhibit No. 170 was  
12 marked for identification.)  
13 The document that's just been marked as  
14 170 on the top M&KCPAs, dated August 8th, 2012. It  
15 says "PRWC Energy, Inc." on it. Do you recognize  
16 this document?  
17 A Yeah, this looks familiar.  
18 Q If you can turn to 13402, at the bottom it  
19 says "Wayne Middleton." Is that your signature?  
20 A Yes.  
21 Q And what do you remember about this  
22 document?  
23 A This, from my recollection, this  
24 authorizes M&KCPAs to conduct an audit of the books  
25 of the company and, you know, and so on, they -- you

1 remember if it was this one or the auditor for the  
2 other, for Canyon Minerals. It would have been one  
3 of the two.  
4 Q And were you able to answer the auditors'  
5 questions?  
6 A I think so. I never had any follow-up  
7 questions from the auditor.  
8 Q For any questions you were asked, did you  
9 refer to John Briner or MetroWest Law?  
10 A I don't remember.  
11 Q Did the auditors ask you whether or not  
12 you had access to the issuers' bank accounts?  
13 A I don't remember.  
14 Q Did the auditors ask you anything about  
15 the mineral claim purchase?  
16 A It seems like they asked me if that had  
17 happened, and to my understanding it has, and it  
18 did. They were general questions, who would  
19 authorized a payment. As director of the company, I  
20 would authorize payment. That kind of thing.  
21 Q Did they ask you anything about John  
22 Briner?  
23 A I don't think so.  
24 Q Did they ask you anything about Jervis  
25 Explorations?

1 know, their payment, their fees for audit, et  
2 cetera.  
3 Q Have you ever spoken directly with any  
4 person from M&KCPAs?  
5 A I spoke with someone from one of the audit  
6 firms for one of the issuers.  
7 Q Do you know which one that was?  
8 A I don't. I don't know.  
9 Q Is this any reason why you think it was  
10 not M&KCPAs?  
11 A No, I think it probably was. Yeah, I  
12 think this is a correct document.  
13 Q And do you know who you contacted you from  
14 M&KCPAs?  
15 A I don't.  
16 Q Do you remember what was discussed when  
17 you were contacted?  
18 A Well, I don't remember which company the  
19 auditors contacted me. There was one of the  
20 companies I talked to an auditor. I believe they  
21 were in India at the time, and they were just doing  
22 some follow-up on procedures. And, you know, very,  
23 very broad questions about the procedures of the  
24 company, and it was a short conversation. I don't  
25 remember all the exact details of that. And I don't

1 A No.  
2 Q If you can turn to tab 11, and I'm asking  
3 the court reporter to mark tab 11 as Exhibit 171.  
4 (SEC Exhibit No. 171 was  
5 marked for identification.)  
6 And the exhibit that's just been marked  
7 171 says "Standard Form to Confirm Account." It  
8 says under that "PRWC Energy, Inc." Do you  
9 recognize this document?  
10 A Yes.  
11 Q What is it?  
12 A This is the document that I was trying to  
13 figure out the name of before, and this would be, in  
14 my mind, what they would consider the bank account  
15 at MetroWest Law, in trust.  
16 Q So would you consider this a bank  
17 statement?  
18 A That was the closest thing to a bank  
19 statement I got.  
20 Q So when earlier you said that you were  
21 shown one bank statement in the course of your  
22 tenure, was this what you had in mind?  
23 A Yes.  
24 Q And where it says your name, "Wayne  
25 Middleton," is that your signature?

1 those, but I don't recall for sure.

2 BY MR. SUNSHINE:

3 Q Do you know why you were speaking with  
4 her?

5 A I don't remember. I think it was just a  
6 quick conversation.

7 Q And do you remember anything else about  
8 the substance of the conversation?

9 A No.

10 Q If you can turn to 13858, the next page.  
11 Towards the bottom, the last paragraph on the page,  
12 I'm looking at and I'm going to read the second  
13 sentence. It says: "The company will not receive  
14 any of the proceeds from the sale of these shares."

15 Was that a fact that you were aware of at  
16 the time that you were CEO?

17 MR. ANDERSON: I'll object on the basis  
18 that it calls for a legal conclusion, and I believe  
19 you're asking him to analyze the correctness of the  
20 factual accuracy of a document that he's testified  
21 he's not seen and hasn't signed and doesn't know  
22 about. So to that extent, I don't believe he's  
23 qualify or able to answer what question.

24 MR. SUNSHINE: We disagree with everything  
25 you just said. That sentence is about -- we're not

1 would be to the company, and it was never my  
2 understanding that I would receive any money from  
3 the sale of stock.

4 Q Turn to 136 -- excuse me -- 13863, towards  
5 the top where it says, on the first set of all-caps  
6 sentence reads: "We are controlled by Mr. Wayne  
7 Middleton, our sole executive officer and director,  
8 and as such, you may have no effective voice in our  
9 management."

10 The second set of all-caps text reads: "We  
11 are solely governed by Mr. Wayne Middleton, our sole  
12 executive officer and director, and as such there  
13 may be significant risk to the company of a conflict  
14 of interest." Now, my question to you has nothing  
15 to do with any legal opinion, but simply the fact  
16 of: Was it your understanding that you were the  
17 person solely governing the issuer at the time that  
18 you were the CEO and director?

19 A It was my understanding that I was only  
20 one in charge for the company.

21 Q And sitting here today, in light of your  
22 testimony that you did not negotiate the mineral  
23 purchase, that you did not determine who were the  
24 auditors, that you did not do the accounting for the  
25 issuers, and that, in fact, MetroWest and Mr. Briner

1 asking him to interpret the sentence. It states a  
2 fact of who was receiving the proceeds from the  
3 stock sale, and I'm asking if he understood that  
4 fact at the time. So it's not -- it has nothing to  
5 do with the legal interpretation. I'm asking the  
6 witness' interpretation, the witness' knowledge of  
7 that fact.

8 BY MR. SUNSHINE:

9 Q Did you know that fact?

10 MR. ANDERSON: Except that fact relates to  
11 the issuance of securities under this registration  
12 statement, which he knew nothing about. So I'm not  
13 sure how he can testify about the correctness of a  
14 fact he knew nothing about. You're asking him to  
15 comment on this registration, the issuance of these  
16 shares, and whether that was, you know, what he knew  
17 about it. He's already said he doesn't.

18 MR. SUNSHINE: I complete disagree with  
19 everything you're saying.

20 BY MR. SUNSHINE:

21 Q Mr. Middleton, there's a question pending.

22 A Can you restate the question?

23 Q Were you aware of who was going to receive  
24 the proceeds from the stock sale?

25 A I thought the proceeds of the stock sale

1 conducted all those activities, do you think that  
2 this statement is in conflict with those facts?

3 MR. ANDERSON: And I'll object on the  
4 basis it calls for a legal conclusion.

5 A I guess I'll take the Fifth Amendment on  
6 that.

7 BY MR. SUNSHINE:

8 Q As you've just taken the Fifth Amendment  
9 in response to my question, I need to discuss with  
10 you some facts about that.

11 I am not authorized to compel you to give  
12 evidence or testimony as to which you assert your  
13 privilege against self-incrimination, and I have no  
14 intention of doing so. In addition, I do not have  
15 the authority to compel your testimony by granting  
16 you immunity from prosecution. Any question that I  
17 ask hereafter will be with the understanding that if  
18 you wish to assert your privilege, you need merely  
19 state that you refuse to answer on the grounds that  
20 your answer may tend to incriminate you. In other  
21 words, you are not compelled to answer any further  
22 questions if you believe that a truthful answer to  
23 the question would tend to show that you committed a  
24 crime and you wish to assert your privilege against  
25 self-incrimination. Accordingly, if you answer any

1 Q And after yourself and Mr. Irizarry, who  
 2 is the next largest stakeholder?  
 3 A I don't know exactly. There were other --  
 4 there were two other people involved. I guess they  
 5 would be the next biggest shareholders, Dave Scott  
 6 and Henrik Zohrabians.  
 7 Q Does Immobiliare have -- has Immobiliare  
 8 employed any attorneys?  
 9 A Yes.  
 10 Q And who are they?  
 11 A Lee Segal. He's the primary attorney for  
 12 the company.  
 13 Q Anybody else?  
 14 A You know, we've got -- you know, we've got  
 15 different stakeholders in there. I guess I don't --  
 16 do you want a list of the shareholders?  
 17 Q Who was -- what attorneys has Immobiliare  
 18 hired other than the person you just identified?  
 19 A They've hired Cliff Hunt to do an S-1  
 20 registration. It went through that process.  
 21 Q Sorry, who was that?  
 22 A Cliff Hunt.  
 23 Q Cliff Hunt, thank you. Okay, anybody  
 24 else?  
 25 A You know, we've got -- we've had different

1 Q Anybody else?  
 2 A No.  
 3 Q Any attorneys that have been hired by  
 4 Eliza Properties?  
 5 A There are no current -- to set up the  
 6 entity, I think we hired an attorney, but that was a  
 7 while ago. There are no currently-employed.  
 8 Q How long ago was an attorney hired to set  
 9 it up?  
 10 A Maybe 12 years ago.  
 11 Q Okay. And were there any accountants that  
 12 have done any work for Eliza Properties?  
 13 A Our tax accountant, I suppose.  
 14 Q And who is that?  
 15 A Brad Margetts.  
 16 Q And what firm is he associated with?  
 17 A He's independent.  
 18 Q Anybody else?  
 19 A No.  
 20 Q Okay. We have no further questions at  
 21 this time. We may, however, call you again to  
 22 testify in this investigation. Should this be  
 23 necessary, we will contact your counsel. Do you  
 24 wish to clarify anything or add anything to the  
 25 statements you have made today?

1 opinions on different things. My cousin William  
 2 owns some shares. He's an attorney in that. And we  
 3 have hired Mr. Anderson here for consultation with a  
 4 couple of things.  
 5 Q Anybody else?  
 6 A No.  
 7 Q Has Immobiliare hired any accountants?  
 8 A Yes.  
 9 Q Who are they?  
 10 A Charlie Klein, Charles Klein, is the  
 11 auditor for Immobiliare.  
 12 Q And what accounting firm is Mr. Klein  
 13 associated with?  
 14 A I don't remember the name of the company.  
 15 It was Drake & Klein, and I think they changed their  
 16 name.  
 17 Q Anybody else?  
 18 A No.  
 19 Q I believe you mentioned you're an owner of  
 20 Eliza Properties; is that correct?  
 21 A That's correct.  
 22 Q And who are the other owners?  
 23 A My parents.  
 24 Q What are their names?  
 25 A Anthony and Carol Middleton.

1 A I don't think so.  
 2 MR. SUNSHINE: Counsel, do you wish to ask  
 3 any clarify questions?  
 4 MR. ANDERSON: I would like to ask a  
 5 couple, yes, please.  
 6 MR. SUNSHINE: Okay. 16  
 7 EXAMINATION  
 8 BY MR. ANDERSON:  
 9 Q Mr. Middleton, you talked earlier about  
 10 how you would authorize payments for certain  
 11 transactions for the issuers. Do you have any  
 12 personal knowledge about the timing of when those  
 13 payments were actually made?  
 14 A No.  
 15 Q And do you know, from personal knowledge,  
 16 whether payments that you were sent information  
 17 about to authorize were made before or after the  
 18 time that you gave that authorization?  
 19 A I don't know.  
 20 Q If you'll turn to the exhibit under tab  
 21 number 8.  
 22 MR. SUNSHINE: So sorry, you said tab 8.  
 23 That's Exhibit 169.  
 24 MR. ANDERSON: I don't remember. It's the  
 25 trust ledger for PRWC.

1 MR. SUNSHINE: I'm just clarifying for the  
2 record that it has been marked as Exhibit 169.

3 MR. ANDERSON: Okay. Yeah, I didn't mark  
4 the numbers.

5 Q (By Mr. Anderson) You mentioned, Mr.  
6 Middleton, in your earlier testimony, with respect  
7 to this exhibit, that it looked correct, you assumed  
8 it was correct, and Mr. Sunshine asked you about  
9 that a little bit. What did you base that  
10 assumption on?

11 A Well, I just based the assumption on  
12 everything that I've heard from Mr. Briner's office.

13 Q So do you have any personal knowledge  
14 about where the first line indicating there an  
15 investment of \$30,000 came from?

16 A No.

17 Q And the \$8,500 property purchase payment  
18 to Jervis, do you have any personal knowledge about  
19 when or under what circumstances or how that money,  
20 if it was even paid, was paid to Jervis?

21 A No.

22 Q Do you have any personal knowledge about  
23 the \$675 paid for what looked like incorporation  
24 fees?

25 A No.

1 A Yes.

2 Q Did you rely on his advice or his  
3 direction or his office's direction as legal advice?

4 A Yes. I never created any documents  
5 without an attorney.

6 Q Turn to tab 5, please.

7 MR. SUNSHINE: For the record, the  
8 document on tab 5 has been marked as Exhibit 166.

9 Q (By Mr. Anderson) This Engagement  
10 Agreement is dated May 31st, 2012. There was some  
11 discussion about the various dates on agreements,  
12 this one and the Jervis Explorations contract, for  
13 example, and then looking at the dates that there  
14 were various financial transactions that we just  
15 looked at under tab 8. When you got this agreement  
16 or executed this agreement, were you concerned about  
17 the date on the agreement?

18 A No.

19 Q Why not?

20 A I didn't think it was relevant.

21 Q Does the date on the agreement necessarily  
22 -- is that necessarily the date that you actually  
23 signed it?

24 A Not necessarily. I don't know.

25 Q Would Mr. Briner's office occasionally

1 Q And the management fees, the \$2,000, you  
2 do have personal knowledge about that?

3 A I received that.

4 Q And so when you say "this looks correct,"  
5 are you saying that based on the fact that those  
6 numbers are consistent with what you've been told by  
7 Mr. Briner's office?

8 A That's -- yeah. That's all I had to go  
9 on.

10 Q If you'd turn to tab number 11.

11 MR. SUNSHINE: For the record, tab 11, the  
12 document under tab 11 has been marked as Exhibit  
13 171.

14 Q (By Mr. Anderson) Similarly here, you said  
15 you signed off on this as representing the amount of  
16 funds in the MetroWest trust account for the company  
17 PRWC. What was that statement based on? Is that  
18 based on your personal knowledge or something else?

19 A It's based on them sending this statement  
20 that that's in the account.

21 Q And who sent you that statement?

22 A MetroWest Law.

23 Q Was it your understanding that Mr. Briner  
24 was acting in a legal capacity in connection with  
25 these companies?

1 send you agreements to sign and send back?

2 A Yes.

3 Q And were the dates preprinted on those  
4 documents?

5 A Probably.

6 Q And would you ever correct a preprinted  
7 date on a document before signing it and sending it  
8 back?

9 A No.

10 MR. ANDERSON: That's all I have. Oh, no,  
11 sorry, that's not all I have. I have one more.

12 Q (By Mr. Anderson) Before the SEC issued  
13 its subpoenas, its first subpoenas in mid-June or  
14 the end of June, I can't remember the exact date,  
15 before that time had you ever contacted Mr. Briner  
16 or his offers or attempted to do so to terminate  
17 your relationship with these companies?

18 A Yes.

19 Q Would you tell us the circumstances of  
20 that.

21 A Well, a few weeks before, two or three  
22 weeks before, I got a letter in the mail from the  
23 auditors, I believe it was M&K, saying that there  
24 was a balance due and that I needed to pay that or I  
25 would be -- they would come after me with

# **EXHIBIT**

**4**

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2 In the Matter of: )	3 Phillip Zhang 8	
3 LA PAZ MINING CORP. ) File No. NY-8922	4	
4 WITNESS: Phillip Zhang	5 EXHIBITS: DESCRIPTION IDENTIFIED	
5 PAGES: 1 through 193	6 D Form 1662 6	
6 PLACE: Securities and Exchange Commission	7 E Subpoena to Phillip Zhang 7	
7 3 World Financial Center	8 F Subpoena to DeJoya Griffith 8	
8 New York, New York 10281	9 33 Excerpt from DeJoya Griffith procedures 47	
9 DATE: Thursday, November 5, 2013	10 34 E-mail chain with John Briner 57	
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3 On behalf of the Securities and Exchange Commission:	4 51 Copy of check 132	
4 JASON SUNSHINE, ESQ.	5 52 E-mail with chart 135	
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1 Griffith or Arthur DeJoya.  
 2 Q Okay. Would Chris Whetman have been concurring  
 3 partner on any of the audit companies we just talked about?  
 4 A No, not that I'm aware of, no.  
 5 Q Just a definition, sometimes I might refer to  
 6 issuers as a way of referring to all the issuers for which  
 7 you were lead partner.  
 8 A Okay.  
 9 Q So if I say issuers --  
 10 A It means all of them?  
 11 Q Yes.  
 12 A Or it could mean all of them.  
 13 Q And if you're confused, you can ask me to clarify  
 14 if you're not sure or if a question doesn't pertain -- it  
 15 pertains to one issuer but not another issuer, let me know.  
 16 Okay?  
 17 A Yes.  
 18 Q Let's talk about how did you come to be the audit  
 19 partner on all the issuers?  
 20 A I had another client that we worked with with one  
 21 of the -- the main consultant who referred these clients to  
 22 us which is John Briner. The clients were Dakota Creek and  
 23 Jasper Mining I think, Exploration Company. So through those  
 24 I developed a relationship with John Briner and with that he  
 25 contacted me and referred the positional work as mining

1 provided the information, the accounting information,  
 2 supporting documents, anything we needed he was the main  
 3 contact that we requested the information for. Through that  
 4 that's how we developed the relationship, we would have some  
 5 phone calls discussing certain items.  
 6 Q Was he doing the accounting for those two issuers?  
 7 By issuers just to be clear I mean Dakota and Jasper.  
 8 A Yes, my understanding is his firm was providing  
 9 and doing the accounting work with us.  
 10 Q Let's go forward now to when --  
 11 MR. ADDISON: Can I just ask.  
 12 BY MR. ADDISON:  
 13 Q Both Jasper and Dakota, were those public firms?  
 14 A Yes, I think they became effective. Jasper is now  
 15 transferred to another management group, so John Briner is no  
 16 longer managing that or providing consulting, so it's  
 17 transferred. I believe Dakota is still under his --  
 18 currently is still under him.  
 19 Q When you refer to going audit, is that from a  
 20 public perspective?  
 21 A My understanding, yes. That's when it became  
 22 effective is my understanding.  
 23 Q Were you the lead partner on both of those at that  
 24 time?  
 25 A Yes. When I joined the firm, I think they were

1 companies.  
 2 Q Taking a step back, the two companies, the issuers  
 3 that you mentioned, what were those again?  
 4 A Dakota Creek and Jasper, I think it's Jasper  
 5 Exploration.  
 6 Q How did you come to get those as clients?  
 7 A They were with the firm when I joined, they were  
 8 already clients of the firm before I joined the firm.  
 9 Q And how did you come to work on Dakota and Jasper?  
 10 A I think they had a relationship with Arthur and  
 11 Arthur kind of passed on the relationship, the working  
 12 relationship to me.  
 13 Q Were you the lead partner on Dakota and Jasper,  
 14 those two issuers?  
 15 A Yes.  
 16 Q So Arthur asked you to be lead partner on those  
 17 two?  
 18 A Yes.  
 19 Q And through the work on those two that's how you  
 20 came into contact with John Briner?  
 21 A Correct.  
 22 Q At the time -- I guess tell me about how you came  
 23 to know John Briner through that work?  
 24 A He provided that information, he was the main  
 25 contact or the consultant for those two other companies, he

1 either in the process or already became effective, they've  
 2 been filing for quite a long time.  
 3 Q And do you know how those two firms came into  
 4 DeJoya?  
 5 A I believe they were -- no, I do not. They were  
 6 already a client at the firm when I joined.  
 7 BY MR. SUNSHINE:  
 8 Q Just to confirm, who was the lead partner on  
 9 Dakota and Jasper before you became the lead partner?  
 10 A Marlene Hutchinson.  
 11 Q Did you speak with her about her experience with  
 12 John Briner before you became the lead partner or took over  
 13 as lead partner for those two companies?  
 14 A I believe so, I believe we discussed the entities  
 15 when I took them over.  
 16 Q What did you discuss?  
 17 A What was John Briner's relationship with these  
 18 entities, what did he do for them, how was the working  
 19 relationship, did she have any issues with them, things of  
 20 that nature.  
 21 Q Did she tell you about any issues she had?  
 22 A No, nothing that came to mind.  
 23 Q What she was telling you, was that based solely on  
 24 her experience with working with him?  
 25 A Yes.

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1 Q Had she talked to any auditors that had worked  
2 with John Briner?  
3 A Not that I'm aware of, no.  
4 Q And once you became lead partner, did you speak  
5 with any other auditors or any other professionals that  
6 worked with John Briner?  
7 A I spoke with Arthur, I believe he had the main  
8 relationship with John Briner, I just asked him about his  
9 working relationship with him, any experiences that I should  
10 know about and how do I go about developing a relationship.  
11 Q What did he tell you?  
12 A He told me that he has a practice in Canada and he  
13 helps clients go public and that to work with him on the  
14 current clients that we have with him.  
15 Q You also mentioned that he, correct me if I'm  
16 wrong, gave some advice about how to develop the  
17 relationship, is that correct?  
18 A No, just -- not advice on how to develop a  
19 relationship but just to work with him and develop the  
20 working relationship that he has with them.  
21 Q What advice did he give you about that?  
22 A Communication, just communicate, make sure to  
23 answer any questions on any concerns he may have.  
24 Q Did he tell you how he met John Briner?  
25 A No.

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1 Q Did you ask?  
2 A No, I did not ask.  
3 Q Do you know how long he knew John Briner?  
4 A No.  
5 Q Can you describe for me DeJoya's client acceptance  
6 procedures in general.  
7 A In general when we have a new client we go through  
8 the process of understanding who the client is, the  
9 principals behind it and if they have a consultant who is  
10 helping that client get to understand who that firm is and  
11 usually it's someone who we've already had a relationship in  
12 the past. It's either an SEC attorney or a consultant that  
13 does their accounting work for them.  
14 We do a background check of the principals and  
15 management group behind -- just the basic Google search and  
16 if something comes up that kind of red flags anything, we do  
17 more of a deeper search and then we talk to any parties that  
18 worked with them in the past or currently. Mostly it's SEC  
19 attorneys and consultants that refer clients to us, so we  
20 talk to them about what kind of relationship they have with  
21 the client and then if they've been audited by prior  
22 auditors, we talk to the prior auditors to find out about  
23 their relationship, if they've ever had any issues with them,  
24 concerns about their working relationship and why they're  
25 changing auditors to us.

Page 23

1 Q Were these policies followed when the issuers were  
2 accepted as clients to DeJoya Griffith?  
3 A Yes.  
4 Q You mentioned a few times referrals by an SEC  
5 attorney, what did you mean by that?  
6 A Usually we work with a lot of SEC attorneys who  
7 help the clients draft their S-1's or 10-K's or 10-Q's.  
8 Q Are you talking about attorneys that are currently  
9 employed by the SEC?  
10 A No, I'm talking about attorneys in general who  
11 helped clients draft their S-1's and 10-K's.  
12 Q And so these are attorneys you understand to have  
13 worked at the SEC at some prior point?  
14 A No, that's not what I mean. I mean they have a  
15 background of helping clients file registrations.  
16 Q Maybe I'm -- just correct me if I'm wrong, what  
17 you're saying by SEC attorney you mean their expertise is to  
18 help people file the forms and make the proper disclosures to  
19 file registration statements.  
20 A That's correct.  
21 Q Not that they work at the SEC.  
22 A That's correct.  
23 Q I see. Did any background checks for any of the  
24 issuers turn up anything that concerned you?  
25 A No, we did some basic background checks on the

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1 principals of those entities, those issuers, and nothing came  
2 up.  
3 Q Were -- all the issuers who had John Briner as a  
4 consultant, was there ever a background check done on John  
5 Briner?  
6 A Yes, we did do a general search on John Briner's  
7 background, yes.  
8 Q When did that happen?  
9 A I believe it was June or July of last year.  
10 Q June or July of 2012?  
11 A Yes.  
12 Q And what did that turn up?  
13 A There was some information about his prior  
14 dealings with the SEC that he may have been -- I can't  
15 remember specifically but he may have been prohibited from  
16 practicing in front of the SEC.  
17 Q How did that information come to you?  
18 A Well when the staff started working with these  
19 clients and with John Briner, certain concerns came up, they  
20 addressed it to me and I asked them to do some general  
21 background on John Briner and that information kind of came  
22 up. So we discussed it and I also discussed it with Jason  
23 about that John Briner in the past had been red flagged by  
24 the SEC that he's been prohibited from practicing.  
25 Q This was in June or the summer of 2012, last year?

1 A Yes.

2 Q And when you learned of that information, what did  
3 you do in addition to talking to Arthur DeJoya and Jason  
4 Griffith?

5 A That's it, we discussed it and we talked about  
6 what should we do with the information we have about this and  
7 the conclusion was that his position now is not that he's  
8 practicing in front of the SEC, he's just helping clients  
9 with the accounting and consulting with these projects.

10 Q And -- let's take a step back, what were the  
11 concerns that the staff encountered that caused them to raise  
12 the issue to you?

13 A That everything was going through John Briner.  
14 The main principals behind these projects were referring back  
15 to John Briner when we asked some of the questions and that's  
16 why we raised the concerns.

17 Q Let me understand that, some of the executive  
18 officers for the issuers you're saying were asking John  
19 Briner how to answer the auditors questions?

20 A No, they were --

21 Q And your staff members questions.

22 A When we asked certain questions about the project,  
23 the details of the projects, they would refer to John Briner  
24 saying that he's their consultant, he would have the  
25 information.

1 Q But the "they" -- who is the "they"?

2 A The principals of the companies.

3 Q And do you have any specifics about what questions  
4 they asked to the executive officers that caused them -- the  
5 executive officers referred to Brian to was he just --

6 A No, I don't have the specific questions. I  
7 believe it's just basic information about the projects they  
8 were working on or our audit procedures, questions related to  
9 our general audit procedures.

10 Q So this relates to all the issuers.

11 A That's correct.

12 Q Once the concerns were raised to you, please  
13 describe again what your response was.

14 A I brought those concerns to both Jason Griffith  
15 and Arthur DeJoya, I informed them that we had some concerns  
16 about a staff. We did some general background check of John  
17 Briner because they had some concerns with working with him  
18 and I showed him the information that was found on the  
19 general search about their prior experiences with the SEC and  
20 we discussed if that's going to be an issue going forward  
21 keeping these clients because of John Briner, what should we  
22 do.

23 At that time what we determined was he wasn't  
24 really doing anything wrong other than doing a service for  
25 the clients, providing information and being a consultant.

1 Q Let's take a step back. Did you have -- I just  
2 need to break it down so I understand the facts.

3 A Yes.

4 Q Was it one conversation with Arthur DeJoya and one  
5 conversation with Jason Griffith or was it a meeting?

6 A A separate conversation with Jason and a separate  
7 conversation with Arthur.

8 Q What was Jason's response when he raised the  
9 issue?

10 A Jason's response was the same.

11 Q Can you say what it is.

12 A His response was that he's not doing anything  
13 wrong other than providing consulting services for these  
14 clients.

15 Q Why did he say that?

16 A I don't know.

17 Q Do you know what he was basing that statement on?

18 A I think it's based on the information I provided  
19 to him.

20 Q You just said he told you that John Briner is not  
21 practicing before the SEC, he's just helping clients to file  
22 the forms they need to file.

23 A Right.

24 Q So he's not doing anything wrong. Was that his  
25 opinion or is it based on something else?

1 A I believe it's based on his opinion.

2 MS. MEHRABAN: What information? You said you  
3 provided him information, what information did you provide?

4 THE WITNESS: The background check, the general  
5 background check information, there was some information  
6 about him being prohibited from practicing in front of the  
7 SEC and concerns from the staff about working with him, that  
8 type of information is what I provided to him.

9 Q Did you -- aside from telling him that, did you --  
10 let me take a step back. Did you review any documents that,  
11 let's say an order which is what it seems you're referring  
12 to, did you read any SEC documents reflecting what you said  
13 about him practicing before the SEC?

14 A Yes.

15 Q You did.

16 A Yes.

17 Q What do you understand the facts were of the  
18 document you read?

19 A Yes.

20 Q What were they?

21 A I can't recall the specifics but in general it was  
22 related to a certain project in the past that he worked on  
23 that he was involved with that had some issues with the SEC  
24 information in there, that it was be investigated by the SEC.  
25 I can't recall more than that, I think that is what I

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1 remembered from reading the document.

2 Q Did you provide that document to Jason Griffith?

3 A Yes.

4 Q Did you also provide it to Arthur DeJoya?

5 A Yes.

6 Q So when you provided that document to Jason

7 Griffith and you also relayed in addition to that the staff's

8 concerns. Is that right?

9 A Right.

10 Q And I'm characterizing it, correct me if I'm

11 wrong, Jason Griffith's response was and this is in a phone

12 conversation. Is that right?

13 A No, it was a face to face meeting.

14 Q His response was he's not doing anything wrong

15 because he's not practicing before the SEC?

16 A I think he said what he's doing now is just

17 providing consulting services and account service for these

18 clients and that he's not practicing before the SEC which if

19 he's doing SEC work, then he would have some issues because

20 he's prohibited from doing that.

21 Q What was Arthur DeJoya's response?

22 A Arthur's response was similar, indicating that

23 he's just providing consulting services and accounting

24 services now for these clients, that we can't stop him from

25 doing that.

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1 Q So would you --

2 MS. MEHRABAN: What do you mean you can't stop

3 him from doing that?

4 THE WITNESS: I mean -- let me take that back, I

5 mean -- I believe what I mean is he's not doing anything

6 that's being prohibited, I think that's what I'm trying to

7 say, he's doing accounting and consulting services, not any

8 SEC work.

9 Q So Jason Griffith's and Arthur DeJoya's reactions

10 are the same?

11 A Yes.

12 Q What consulting services did they understand John

13 Briner was providing, just in more detail? You mentioned

14 accounting.

15 A Probably it was the accounting and then consulting

16 I guess putting together the projects.

17 Q What does that mean?

18 A Providing documentation, making connections to

19 service vendors, other attorneys, other consulting firms and

20 mining exploration companies I guess.

21 MR. ADDISON: Mr. Zhang, did you say earlier that

22 the relationship with John Briner in this whole thing was to

23 help his clients go public? Did I hear that

24 right?

25 THE WITNESS: I think his role was to help

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1 provide the information needed for us and the SEC attorney so

2 they can file an S-1/.

3 Q So in this context when you say SEC attorney, do

4 you mean the attorney that provides the opinion that goes

5 along with the S-1?

6 A Yes, and draft the S-1 and help him with the

7 filing.

8 Q So you think your description of the SEC attorney

9 also drafts the S-1 in addition to providing an opinion

10 letter?

11 A That's my understanding, yes.

12 Q Did you think that John Briner drafted the S-1?

13 A He could have assisted in drafting certain parts

14 of the S-1, yes.

15 Q Do you believe he also provided legal work to the

16 issuers?

17 A When you mean legal work, maybe just as general

18 counsel.

19 Q The issuers used contracts for several

20 transactions, do you believe he provided those contracts?

21 A He may have, yes.

22 Q Do you know for certain?

23 A No.

24 Q But you believe so.

25 A Yes.

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1 Q Which staff members raised the issue of concerns

2 with John Briner?

3 A Swanandi Redkar.

4 Q Anyone else?

5 A Leena, I can't remember her last name but Leena,

6 it's hard to say her last name, I can't remember her last

7 name.

8 Q What's her position?

9 A Staff accountant.

10 Q What's Swanandi's position?

11 A Manager.

12 Q What's Swanandi's background, her credentials?

13 A She's a -- as far as work experience?

14 Q Professional degree, licenses, is she a CPA?

15 A Yes, she's a CPA.

16 Q Do you know what state?

17 A Nevada.

18 Q And I just remember Redkar, I'm sorry, I'm

19 blocking on the first part of that name. Do you know who I'm

20 referring to?

21 A Swanandi.

22 Q Swanandi Redkar and Leena, is she a CPA?

23 A No, she's not, she's a staff accountant.

24 Q What other credential does she have?

25 A She has an accounting degree from India and I

1 working with an attorney who helped a client file these  
2 registration forms, that attorney was helping them to do  
3 that.

4 Q And what attorney was that?

5 A Diane Dalmy.

6 Q You understood what about her role?

7 A She was the attorney that was filing the  
8 registration forms.

9 Q But you didn't believe that John Briner was  
10 assisting the issuers to obtain ticker symbols.

11 A No.

12 Q Did you -- let's take a step back, you had  
13 mentioned earlier that your staff raised concerns to you  
14 about John Briner. How did they raise those concerns?

15 A They e-mailed me or talked to me on the phone  
16 about concerns when dealing with the principals behind these  
17 entities, why they were asking certain questions, they were  
18 referring them to John Briner.

19 Q So that was all communicated through e-mail to  
20 you.

21 A Through e-mail and probably some telephone calls.

22 Q We can circle back to that. Then you raised those  
23 concerns and you provided an SEC document to Arthur DeJoya  
24 and also Jason Griffith.

25 A Yes.

1 in how you would then conduct the audit going forward.

2 A Yes, exactly.

3 BY MR. ADDISON:

4 Q Was there any discussion with either DeJoya or  
5 Griffith about visiting the Briner work area, going up to  
6 visit Briner?

7 A Yes, there was talk about going up to his office  
8 to visit him but nothing materialized. We did talk about  
9 visiting his office and other offices in Canada because we  
10 work with several companies up there and contacts in Canada.

11 Q What was the name of John Briner's firm?

12 A Metro West Law.

13 Q Can you tell me why nothing materialized.

14 A No, I cannot, probably timing, scheduling.

15 BY MR. SUNSHINE:

16 Q Had you ever reviewed any contracts between Metro  
17 West Law and any of the issuers?

18 A No.

19 Q Have you ever asked for any of those contracts?

20 A No.

21 Q Why not?

22 A I don't know.

23 Q Have you ever reviewed any bills between Metro  
24 West Law and any of the issuers?

25 A Yes.

1 Q Did you change any procedures in response -- audit  
2 procedures in response to what Arthur DeJoya and Jason  
3 Griffith said?

4 A Change any audit procedures -- there's nothing  
5 specific I can remember. I can't recall whether we changed  
6 any specific procedures or not but we did talk about making  
7 sure that whatever audit procedures we needed to do that we  
8 do those, that is required by the process.

9 Q So you didn't change course when you learned of  
10 this information from your staff about John Briner, is that  
11 accurate?

12 A I would say at that time we may not have started  
13 any audit procedures yet, the significant audit procedures at  
14 that time yet. We may have just started the initial process,  
15 the planning side of it and then I believe after that -- I  
16 can't say we changed anything, we may have added some --  
17 because of the information we have, we may have done some  
18 things differently but there was no "okay, we're going to do  
19 A, now we're going to do B." Because of the information we  
20 received since we hadn't done anything significant, we  
21 planned it a little bit differently after that information  
22 was obtained.

23 Q So you received this information about June 2012  
24 and since no audit significant work had been done, you're  
25 saying you planned incorporating information you had learned

1 Q Do you know how much -- pick any one of the  
2 issuers, how much Metro West Law charged them?

3 A No, I do not.

4 Q But you have a memory that you did see bills  
5 between those two entities?

6 A Yes, I believe so.

7 Q And by two entities I mean Metro West billing the  
8 issuers.

9 A Yes.

10 Q You can tell me generally, what was your  
11 understanding of the issuers, what was the business of the  
12 issuers?

13 A They were mining exploration entities.

14 Q And let's start with the owners, did you have any  
15 personal contact with any of the owners?

16 A No.

17 Q Why not?

18 A At that time the manager and staff contacted those  
19 principals.

20 Q And did you talk to your staff about their  
21 experience in contacting the owners?

22 A Yes.

23 Q Do you know what they were contacting the owners  
24 about?

25 A Our normal procedures, auditing procedures of

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1 A It was John Briner and Chris Whitman and myself  
 2 and I believe John Briner's assistant, Sandy, Alexandra, was  
 3 on the call at that time as well, yes.  
 4 Q What was discussed?  
 5 A The work flow, our staff working on the audits,  
 6 who are the responsible parties of communicating information  
 7 as requested, providing the information that we need, time  
 8 frame. Our staff that's working on this, they're working out  
 9 of the India office, the understanding of time differences,  
 10 just overall initial expectations of an audit, things of that  
 11 nature.  
 12 Q This call was sometime after July 13th?  
 13 A Yes, I believe it was said next Tuesday, 10:00  
 14 a.m., so I believe this was a few days after that.  
 15 Q How long was the call in your estimation?  
 16 A Approximately about half an hour.  
 17 Q And did you talk about anything else?  
 18 A We may have talked about all the work we were  
 19 working on with him at that time, specifically the other two  
 20 entities that I mentioned which is Dakota Creek, I think we  
 21 may have talking about La Paz Mining and Jasper about working  
 22 together on all of these projects since they were the main  
 23 contact providing us the information.  
 24 Q So this chain of e-mails is dated July 13, 2012?  
 25 A Yes.

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1 Q We did discuss earlier that your staff raised  
 2 concerns about John Briner in June 2012. Did you know about  
 3 your staff's concerns before this call?  
 4 A I think staff concerns were brought up after this  
 5 call, it was right after this call.  
 6 Q How much time after?  
 7 A Probably a month afterwards, maybe two months  
 8 afterwards, I can't recall.  
 9 Q So somewhere between August and September 2012?  
 10 A Yes, I think so.  
 11 BY MR. MEHRABAN:  
 12 Q Do you keep a calendar?  
 13 A Yes, I do.  
 14 Q Would the calendar entry for this call be on that?  
 15 A It should be because I did send an Outlook invite,  
 16 yes. It would be on my calendar.  
 17 Q So generally if you had a conversation with John  
 18 Briner, would it appear on your calendar?  
 19 A Yes.  
 20 MS. MEHRABAN: Do we have that?  
 21 MR. SUNSHINE: I don't think so, maybe you can  
 22 provide us a copy.  
 23 THE WITNESS: Sure.  
 24 MR. SUNSHINE: We'll keep a note.  
 25 Q When you're on a call like this, do you take

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1 notes?  
 2 A Yes.  
 3 Q Where?  
 4 A On a note pad.  
 5 Q So you write it by hand, your notes.  
 6 A Yes.  
 7 Q Do you keep your note pad?  
 8 A No, I do not.  
 9 BY MR. SUNSHINE:  
 10 Q Did you keep this particular note pad, were you  
 11 journaling notes about this call?  
 12 A No, I did not.  
 13 MR. SUNSHINE: I'm marking this document as  
 14 Exhibit No. 35.  
 15 (Commission Exhibit No. 35  
 16 marked for identification.)  
 17 Q I'm handing you what's been marked as Exhibit No.  
 18 35. This is an e-mail from Katie Pittman dated July 20th to  
 19 Phillip Zhang. Do you recognize this e-mail?  
 20 (Witness perusing document)  
 21 A Yes.  
 22 Q What is it?  
 23 A It's an e-mail requesting information related to  
 24 the entities that we were going to work on as audits, the  
 25 main contact person that would go in the engagement letter,

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1 their names, addresses, contact information.  
 2 Q When you saw this e-mail, did you notice that  
 3 Charles Irizarry was the executive officer of two of the  
 4 companies and that Stewart Karney was also executive officer  
 5 of two other companies?  
 6 A Yes.  
 7 Q Did it concern you?  
 8 A No.  
 9 Q Did you understand that the issuers were  
 10 substantially similar?  
 11 A Yes.  
 12 Q Did you ever question why one person would be in  
 13 charge of two companies that are substantially similar?  
 14 A No.  
 15 Q Why not?  
 16 A I don't know.  
 17 MR. SUNSHINE: I'm marking this document as  
 18 Exhibit No. 36.  
 19 (Commission Exhibit No. 36  
 20 marked for identification.)  
 21 Q I'm showing you what has been marked as Exhibit  
 22 No. 36. It's an e-mail dated July 19, 2012 from Swanandi to  
 23 Leena Jadhav. Do you recognize this e-mail?  
 24 (Witness perusing document)  
 25 A Yes.

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1 Q Is that your normal fee per issuer?  
2 A That's correct, that's the normal fee we charge  
3 for startup issuer.  
4 Q \$4,000?  
5 A Yes.  
6 Q So for eleven companies there was no discount in  
7 your normal fee.  
8 A I think we talked about a discount and I think  
9 that was after the discount, I think. Initially we were  
10 going to charge 45, I think we gave them a \$500 discount for  
11 each of the entities.  
12 Q Who is the "him"?  
13 A That would be to these clients here.  
14 Q So is it because -- why was a discount given, was  
15 it because there were so many?  
16 A Yes.  
17 Q You took off 500 you said per issuer?  
18 A Per issuer, yes.  
19 Q Because you were referred eleven entities.  
20 A Yes.  
21 MR. SUNSHINE: I'm marking this document as  
22 Exhibit No. 38.  
23 (Commission Exhibit No. 38  
24 marked for identification.)  
25 Q I'm handing you what has been marked as Exhibit

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1 No. 38. It appears to be a work paper. Do you recognize  
2 this document?  
3 A Yes.  
4 Q What is it?  
5 A That's our engagement acceptance form.  
6 Q And who is Leena Jadhav at the top of the page?  
7 A She is the staff accountant, auditor, working on  
8 this client.  
9 Q And what is the date to the right of her name?  
10 A June 30, 2012.  
11 Q Sorry, I meant the date below that, the September  
12 12, 2012 date, what date does that reflect?  
13 A September 12, 2012.  
14 Q What's the significance of that date? Let me  
15 phrase it this way, was that the date that this form was  
16 completed?  
17 A Yes.  
18 Q Who completed the form?  
19 A At the time Leena.  
20 Q So Leena would answer each of the questions that  
21 are in the form?  
22 A Yes.  
23 Q Would you review those answers?  
24 A Yes.  
25 Q So you would read each question and determine

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1 whether or not the answer is accurate?  
2 A Yes.  
3 Q Moving to question 4, at the bottom right of each  
4 page you'll see is what we refer to as a bates number, it  
5 starts SEC-VJG-E- followed by numbers.  
6 A Yes.  
7 Q What I may sometimes do is refer to the number at  
8 the end of that string to get to specific pages, it's just  
9 for clarity and convenience. So when I say bates number  
10 12390, I'm referring to the page you just turned to.  
11 A Yes.  
12 Q Question number 4, "Do firm personnel lack or  
13 would they be unable to obtain the necessary competence and  
14 capabilities to serve the client including the ability to  
15 comply with any specialized industry, legal, regulatory or  
16 reporting requirements," answer, "No." What basis did you  
17 have to determine that the firm had the competence necessary  
18 to do the audit on the issuers?  
19 A At the time the managers when I was managing the -  
20 - overseeing the audit, Swanandi Redkar, she had experience  
21 auditing mining companies and my staff at the time, I had  
22 some experience as well auditing these companies, not a lot  
23 but a few that I've done.  
24 Q Anything else?  
25 A No.

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1 Q Turning to bates number 12393, the pages are  
2 double sided, so you can take a look.  
3 A 93.  
4 Q Yes. Question number 8, "Does it appear that the  
5 company's financial reporting system including internal  
6 control is insufficient to provide evidence to support that  
7 transactions have occurred and that all the transactions that  
8 should be recorded are in fact recorded," answer, "No." What  
9 is the basis you had for determining that the company's  
10 financial reporting system was sufficient?  
11 A They provided the Quickbooks accounting  
12 information with the general ledger with the accounting  
13 transactions.  
14 Q Who provided the Quickbooks?  
15 A John Briner's office.  
16 Q Did the company maintain its own books, I mean did  
17 the issuer's maintain their own books?  
18 A They were maintained by John Briner's office, they  
19 helped with the accounting and recorded the transactions.  
20 Q So the issuers themselves didn't record the  
21 transactions, John Briner recorded the transactions for the  
22 issuers. Correct?  
23 A Yes, that's the services they provided to the  
24 client.  
25 Q What basis did you have to determine that that

1 system was sufficient?

2 A What basis -- I don't know how to answer that  
3 question. How do I know it was sufficient? They provide us  
4 a record showing the transactions related to the company.

5 Q Let me ask this way, how did you know that they  
6 knew how to do accounting, they meaning Metro West?

7 A When they sent us the information, we looked at  
8 it, it appeared that the transaction was recorded recently.

9 Q So you determined that Metro West had the  
10 competence to do accounting based on the materials they  
11 provided you for the issuers?

12 A Yes, probably based on prior experiences working  
13 with them.

14 Q Had you ever tested any procedures that Metro West  
15 conducted for the issuers?

16 A When you say tested procedures?

17 Q Perform any of the accounting procedures that they  
18 had conducted on the issuers.

19 A Yes, we look at all the transactions to make sure  
20 that the information behind it supports that accounting  
21 entry.

22 Q Did you ever obtain -- do you know if Metro West  
23 had ever been audited by another auditing company?

24 A Not that I'm aware of, no.

25 Q You never spoke to any auditors about work they

1 and any of the issuers.

2 A Not that I'm aware of, no.

3 Q Can you tell me whether or not there were any  
4 other types of reports issued, for example internal audit  
5 reports on internal audit staff at Metro West?

6 A No.

7 Q We've already established and if you can confirm  
8 that you did not visit John Briner's office.

9 A That's correct.

10 Q Did you ever meet John Briner personally?

11 A No.

12 Q Did you ever meet anyone on his staff personally?

13 A No.

14 Q Now you mentioned prior experience before, however  
15 you also said that there was no SAS-70 report on Jasper or  
16 Dakota. Correct?

17 A Correct.

18 Q Do you know if there was ever a SAS-70 report for  
19 those two entities?

20 A Not that I'm aware of.

21 Q And you were the lead partner on those two  
22 entities. Correct?

23 A Once I started working for the firm, yes.

24 Q Do you know how many years they were at DeJoya  
25 before you arrived?

1 had done on Metro West's ability to do accounting. Correct?

2 A That's correct.

3 BY MR. ADDISON:

4 Q Just to clarify one of the answers you just gave,  
5 you looked at documents, can you tell me who provided those  
6 documents to you?

7 A John Briner's office.

8 Q So you used John Briner documents to review  
9 transactions booked by John Briner. Right?

10 A Yes.

11 Q Just to clarify, I asked you questions earlier  
12 about Jasper and Dakota, can you tell me on any of the  
13 issuers did you get a SAS-70 report?

14 A No.

15 Q SAS-70 is also referred to as AU-324 just for the  
16 record. Can you tell me whether or not you got any user  
17 manuals or technical manuals from Metro West.

18 A No.

19 Q For any of the issuers?

20 A No.

21 Q Can you tell me whether or not John Briner  
22 provided you with system overviews of how the process works.

23 A No.

24 Q We've already established but will you confirm you  
25 did not get any contracts between John Briner's Metro West

1 A No, I do not.

2 Q I went through a slew of documents that you didn't  
3 get on the issuers. Can you tell me whether any of those  
4 documents, for example a user or technical manual, was made  
5 available to Jasper or Dakota -- for the Jasper or Dakota  
6 audits?

7 A No.

8 BY MR. ADDISON:

9 Q Looking at question 9 on the same page we were  
10 referring to earlier, we did go over this, I said concerns  
11 about management and integrity and I just wanted to go back  
12 for a moment to when you learned of your staff's concerns  
13 about John Briner. Would it have been before this document  
14 was filled out or after this document was filled out?

15 (Witness perusing document)

16 A I can't recall, it should have been prepared prior  
17 to that call, prior to that e-mail discussion but I can't  
18 recall exactly when this was prepared.

19 Q Meaning that this document was prepared before you  
20 learned of the concerns? That's what I'm trying to figure  
21 out. Just for reference the dated is September 2012.

22 MS. MEHRABAN: This is not a memory test, if  
23 there's something you could look at that would help refresh  
24 your recollection, if you let us know what that document is  
25 or anything that would refresh your recollection, we're happy

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1 MS. MEHRABAN: If it was just Tuba City.  
 2 THE WITNESS: If it was just Tuba City, usually  
 3 we talk about one client or two clients at the same time.  
 4 Usually we talk about one client or two clients at the same  
 5 time.  
 6 Q Were there any discussions of any other kind of  
 7 fraud other than a pump and dump?  
 8 A No.  
 9 Q Are you familiar with a reverse merger?  
 10 A Yes.  
 11 Q What is it?  
 12 A A shell company acquiring an operating entity into  
 13 a public entity.  
 14 Q And the result is that the non-public entity then  
 15 is able to become public.  
 16 A Yes.  
 17 Q Did you believe that Tuba City might be  
 18 considering such a reverse merger?  
 19 A No, not a reverse merger, not that I recall, no.  
 20 Q Is there anything else that occurred either during  
 21 the planning meeting or during your call with Swanandi that  
 22 is not reflected on Exhibit No. 39?  
 23 A No.  
 24 Q Is there anything else that happened in the  
 25 planning stage and by that I mean the initial discussion to

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1 design the audit that's not reflected in what we just  
 2 discussed?  
 3 A No.  
 4 MR. SUNSHINE: I'm marking this document as  
 5 Exhibit No. 40.  
 6 (Commission Exhibit No. 40  
 7 marked for identification.)  
 8 Q I'm handing this document marked as Exhibit No. 40  
 9 to you. It appears to be another work paper entitled  
 10 "Understanding the Design and Implementation of Internal  
 11 Control for Tuba City Corp." Do you recognize this document?  
 12 A Yes.  
 13 Q What is it?  
 14 A It's our understanding the design of internal  
 15 control.  
 16 Q And where it says "Completed by Laxmikant Alai,"  
 17 does that mean that you filled out this document?  
 18 A He filled out the document, yes.  
 19 Q And the date, September 10, 2012, would that be  
 20 the date he filled it out?  
 21 A Yes, that would be correct.  
 22 Q Okay. Before we get into the details of the  
 23 document what is your understanding of Tuba City's internal  
 24 controls?  
 25 A My understanding is that there is only person,

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1 employee, officer of the company that managed everything,  
 2 controlled everything. So they really didn't have any  
 3 separation of duties or any controls we can rely on. They  
 4 outsource most of their accounting services to John Briner's  
 5 company to help with the company enter the transactions and  
 6 keep a record.  
 7 Q That would be true for all the issuers, not just  
 8 Tuba City?  
 9 A That would be true, yes.  
 10 Q So looking at bates 14466, item 1(b) where it  
 11 says, I'm just paraphrasing, I'm quoting part of it, "who has  
 12 outsourced the accounting function to third party," is that  
 13 the party Metro West Law, John Briner's law firm?  
 14 A Yes.  
 15 Q And where it says "Cash is maintained in a trust  
 16 account with third party," would that be the trust account we  
 17 talked about earlier?  
 18 A Yes.  
 19 Q The sentence after that says "This demonstrates  
 20 management's willingness to separate the functions to insure  
 21 smooth working with no override controls." What do you  
 22 understand that to mean?  
 23 A It means that their cash account is maintained by  
 24 a third party, a separate party that is controlled by someone  
 25 else other than someone inside the company.

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1 Q And that fact is why you would say that it means  
 2 the management can't override controls?  
 3 A It just helps with separating the functions, so  
 4 basically you hire a third party accountant consultant to  
 5 help with some of the functions so that one person doesn't  
 6 perform all the functions.  
 7 Q Okay. Moving to the next page, number 2, in  
 8 response to question number 2, the answer which is bold  
 9 underlined says "Understanding the internal controls of the  
 10 company by discussion with John Briner, the consultant of the  
 11 company going through agreements entered by the company."  
 12 What do you understand that to mean?  
 13 A Make certain inquiries with John Briner about the  
 14 controls of the company.  
 15 Q So if I understand it, the way you understood how  
 16 the company functioned was through what John Briner told you?  
 17 A Yes.  
 18 Q Did you also consult the owner of the company to  
 19 ask them how their controls operated?  
 20 A Yes, we did ask them that.  
 21 Q Did you ask them that?  
 22 A I did not, the staff did.  
 23 Q Which staff would that have been?  
 24 A That should have been Laxmikant, it's not  
 25 documented here.

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1 Q Is that -- in doing that is that when they raised  
 2 concerns about John Briner's ability to conduct accounting  
 3 and other things?  
 4 A Through that they raised concerns that everything  
 5 was going through John Briner.  
 6 Q Because some of the owners or all of the owners  
 7 were referring to John Briner to answer questions.  
 8 A Correct.  
 9 Q Do you know how were transactions authorized, how  
 10 were issuers' transactions authorized?  
 11 A By the officer of the company, the president of  
 12 the company.  
 13 Q So the president of the company would authorize  
 14 the transaction and how would that transaction be effected?  
 15 A How it's recorded?  
 16 Q No, how would it happen if say hypothetically the  
 17 issuers wanted to pay for office equipment? How would the  
 18 funds actually get paid to the office supplier?  
 19 A In this case it's mostly related to professional  
 20 fees and purchasing of the mineral claim.  
 21 Q How would the professional fees get paid?  
 22 A I guess they would be paid from the trust account.  
 23 Q So your understanding is the owner would tell John  
 24 Briner to pay the professional fees we just talked about?  
 25 A That would be my understanding, yes. I would say

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1 John Briner would communicate with the client or the  
 2 principal of the entity saying these are the services that we  
 3 need when it's audits or attorney fees, these are the  
 4 invoices, we need to pay those and then John Briner's office  
 5 would process that payment through the trust account.  
 6 Q Did you ever see any evidence of a transaction  
 7 being authorized?  
 8 A No. I would just see the invoices probably.  
 9 Q Did you ever ask for that kind of evidence?  
 10 A No.  
 11 Q Why not?  
 12 A I don't know.  
 13 Q Did you ever ask for any evidence that management  
 14 reviewed John Briner's accounting work and by management I  
 15 mean the owners or the issuers?  
 16 A Overseeing the transactions that John Briner  
 17 processed, did we ask for that?  
 18 Q Yes, did you ask for evidence of that?  
 19 A Not that I'm aware of.  
 20 Q Why not?  
 21 A I think it's based on the assumption that the  
 22 client has assigned that responsibility to John Briner's  
 23 office to help with that process.  
 24 Q I'm sorry, can you repeat that.  
 25 A I believe there was an understanding between the

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1 client and John Briner's office that John Briner would  
 2 provide those services for the client and they would have  
 3 that understanding.  
 4 Q What is your understanding of that based on?  
 5 A That they would help control the processing of the  
 6 payments for the services.  
 7 MR. SUNSHINE: I'm marking this document as  
 8 Exhibit No. 41.  
 9 (Commission Exhibit No. 41  
 10 marked for identification.)  
 11 MR. SUNSHINE: And I'm marking another document  
 12 as Exhibit No. 42.  
 13 (Commission Exhibit No. 42  
 14 marked for identification.)  
 15 Q I'm handing you what has been marked as Exhibit  
 16 No. 41, that appears to be an e-mail from Leena Jadhav dated  
 17 October 4, 2012 to a number of individuals including Phillip  
 18 Zhang. Do you recognize this e-mail?  
 19 A Yes.  
 20 Q What is it?  
 21 A It's an e-mail from Leena to John and Sandy.  
 22 Q Who is Leena?  
 23 A Leena is the staff accountant working on Gold Camp  
 24 and Tuba City.  
 25 Q So it appears that she is asking for some

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1 information and has numbered them into several points.  
 2 A Yes.  
 3 Q Points three, "We understand that you have  
 4 provided us bank confirmation from Metro West Corp. but we  
 5 also need the deposit slips, copies of checks for deposits,  
 6 withdrawals from bank account, basically any document which  
 7 confirms the payment deposit of the amounts in the bank."  
 8 What do you understand her to be asking?  
 9 A Some additional supporting information related to  
 10 those bank trust accounts.  
 11 Q And I'm handing you what has been marked as  
 12 Exhibit No. 42 and that is an e-mail that appears to be from  
 13 John Briner dated October 4, 2012 to Leena Jadhav, Phillip  
 14 Zhang and others. Do you recognize that e-mail?  
 15 A Yes.  
 16 Q This appears to be John Briner answering Leena's  
 17 question and when you refer to the same point three, the  
 18 answer is "These are wire receipts, is that okay?"  
 19 A Yes.  
 20 Q So what do you understand that answer to be?  
 21 A My understanding is that these transactions relate  
 22 to wire transactions.  
 23 Q He's saying he's going to provide the wire  
 24 receipts?  
 25

1 A Yes.

2 Q In the point three above that on Exhibit No. 42,  
3 what does it mean "We understand you provided us with bank  
4 confirmation for Metro West Corp."?

5 A We had confirmed cash accounts, we called them --  
6 they're standard forms called bank confirmations, that's what  
7 it's referring to that would confirm the cash accounts in  
8 which in this case it would be trust accounts that's held  
9 with Metro West.

10 Q So the bank confirmation is a form that Metro West  
11 would fill out to confirm the cash for a particular issuer.  
12 Is that accurate?

13 A Say that again.

14 Q So the bank confirmation that she's referring to  
15 is a form that John Briner would fill out to confirm the cash  
16 of a particular issuer?

17 A That's held in his trust account.

18 Q That's held in his trust account.

19 A Yes.

20 Q I just want to make sure I understand what that  
21 is.

22 A Yes.

23 Q Below point three going back to Exhibit No. 41,  
24 "Also please help us understand the internal controls in  
25 place in the company, e.g. as we understand the accounting

1 recorded in the GL that makes up the balance sheet income  
2 statement, they look at that and make sure all expenses are  
3 recorded properly.

4 Q And how do you know that? Let me just  
5 re-characterize what you said, you assumed that with the  
6 financial statements some form of general ledger with the  
7 transaction is also supplied.

8 A That would be my understanding because I assume  
9 financial statement in general is referring to statements  
10 that's provided, it could mean various documents. I don't  
11 know what specific ones, I'm assuming balance sheet income  
12 statement, the GL, a list of transactions.

13 Q Did you ever ask John Briner to clarify his answer  
14 on that point?

15 A I don't recall.

16 Q Do you think any of your staff asked him to  
17 clarify?

18 A I don't recall.

19 Q So you just assumed they meant in addition to what  
20 we commonly understand as financial statements some list of  
21 transactions was also provided.

22 A Yes.

23 Q Second point, "Does any person from the management  
24 verify the copy of checks issued to Metro West from the trust  
25 account?" Answer, "We provide copies upon request." What do

1 function is carried out by Metro West totally unrelated to  
2 the company, however can you help us understand the following  
3 points so I can document the standard audit procedures.  
4 Point one, who authorized the expenses of the company, is  
5 there any procedures in place when authorization is given to  
6 Metro West when the funds are disbursed; point two, does any  
7 person from the management verify the transactions entered in  
8 the books; point three, does any person from the management  
9 verify the copy of checks issued by Metro West from the trust  
10 account."

11 Then turning to Exhibit No. 42, on those three  
12 points the answer to the first one is "The founders or the  
13 directors of the company." So do you understand that to mean  
14 the founders or directors of the company authorized  
15 transactions?

16 A Yes.

17 Q The second point, "Does any person from management  
18 verify the transactions entered in the books," answer, "They  
19 sign off on the financial statements." What does that mean?

20 A I guess they give copies of the financials,  
21 balance sheet income statement and they sign off on this.

22 Q Now the question asked about verifying the  
23 transactions entered in the books.

24 A Right. I'm assuming you're provided a copy of the  
25 financial statement including the transactions that's

1 you understand that to mean?

2 A When the principals of those entities request for  
3 those copies, they were provided.

4 Q Did that answer concern you in any way?

5 A No.

6 Q I ask this because the question says "Does any  
7 person from management verify a copy of the checks," the  
8 answer, "We provide copies upon request" strikes me as a very  
9 passive type of authorization.

10 A Right.

11 Q And my question is did it concern you that if this  
12 is true, if management doesn't ask for a copy of the checks  
13 they won't know what transactions have been completed. Is  
14 that a concern?

15 A Yes.

16 Q It was a concern.

17 A It was a concern, yes.

18 Q So when you learned of that, what did you -- what  
19 was your response?

20 A We made inquiries with the principal of the  
21 company, the officer of the company, to ask them do you ask  
22 for copies of the supporting information, the invoices.

23 Q Now this e-mail is dated October 4, 2012.

24 A Yes.

25 Q Do you think that this is after you learned about

1 want to get, it's possible.  
 2 A Is it for all the entities?  
 3 Q All the entities.  
 4 A You did not get all the letters?  
 5 Q It's possible we overlooked it but it's something  
 6 we looked for, so I don't believe we have it. Maybe it's  
 7 something we could follow up with you to check on. Do you  
 8 believe there was not one obtained from Diane Dalmy?  
 9 A I believe that's our standard procedure, we obtain  
 10 a legal letter from the attorney or any attorney, we only got  
 11 it from John.  
 12 Q So you don't know sitting here.  
 13 A I can't recall, no.  
 14 Q We'll follow up to check on that particular point.  
 15 A Yes.  
 16 MR. SUNSHINE: I have marked three documents,  
 17 Exhibits No. 43, 44 and 45.  
 18 (Commission Exhibits No. 43, 44  
 19 and 45 marked for  
 20 identification.)  
 21 Q I'm handing you what has been marked Exhibit No.  
 22 43, Exhibit No. 44 and Exhibit No. 45. You can take a  
 23 moment, these are e-mails. Exhibit No. 44 is dated November  
 24 5th from Swanandi to Phillip Zhang, Exhibit No. 45 is another  
 25 e-mail from Swanandi, November 5th, to Phillip Zhang and both

1 A Yes.  
 2 Q And passed on to DeJoya and Griffith?  
 3 A Yes.  
 4 Q And did you read the other link below that?  
 5 A Yes.  
 6 Q What was your first response upon receiving this  
 7 information?  
 8 A To discuss that with both Jason Griffith and  
 9 Arthur DeJoya, to discuss that with them, to bring it to  
 10 their attention.  
 11 Q Okay.  
 12 A That the staff brought up these concerns relating  
 13 to John Briner.  
 14 Q Were you concerned that you were working on audits  
 15 and John Briner is managing or doing accounting for issuers  
 16 and he had been the subject of an SEC action?  
 17 A Yes.  
 18 Q Then your first response was to raise it with  
 19 Griffith and DeJoya?  
 20 A Yes.  
 21 Q Did you propose what to do about it to them?  
 22 A I think I asked them what their opinion was as far  
 23 as what we should do with those clients, with this  
 24 information. I don't think I recall proposing anything. We  
 25 kind of just discussed openly what we should be doing as a

1 cc Chris Whetman and Exhibit No. 45, another e-mail from  
 2 Swanandi to Phillip dated November 7th. Take a look at these  
 3 e-mails and let me know when you're ready.  
 4 (Witness perusing document)  
 5 A These were the e-mails I mentioned earlier that  
 6 Swanandi sent me raising concerns by John Briner.  
 7 Q So the date on this is November 5, 2012. Now is  
 8 this the first -- when we spoke earlier about concerns being  
 9 raised, were these the concerns you were referring to?  
 10 A Yes.  
 11 Q November 5, 2012, was that the first date that you  
 12 learned that John Briner had issues with the SEC?  
 13 A Yes.  
 14 Q Looking at this e-mail, it says "Hi Phillip, not  
 15 sure if this is our John Briner, can you please check link  
 16 below, I will call you tonight." Did you check the link  
 17 below, the SEC link?  
 18 A Yes, I checked those links, I looked through the  
 19 information and I believe that's -- through this information  
 20 and this right here is when I pulled up some documents I  
 21 referred to earlier that related to John Briner, his prior  
 22 instances with the SEC.  
 23 Q So this link, it says sec.gov. litigation  
 24 complaints 2009. You believe this is the document that you  
 25 read.

1 team, as a group I guess.  
 2 Q Did you formulate your own opinion on this prior  
 3 to having the discussion with Griffith and DeJoya?  
 4 A Yes, it did raise the concern that John Briner had  
 5 these past experiences with these issues, it did raise  
 6 concerns whether or not that could have similar issues with  
 7 the current clients we're working on. It did cross my mind  
 8 whether or not this is someone we want to continue working  
 9 with but I didn't formulate whether we want to continue or  
 10 not, I didn't make that determination yet at that time.  
 11 Q Did you speak with Chris Whetman about this?  
 12 A Yes, because he was also e-mailing him on it and  
 13 we did talk about that. Yes, I did speak with Chris on that.  
 14 Q Do you recall what you discussed?  
 15 A I think I spoke with Chris about my discussions  
 16 with Jason Griffith and Arthur. I told him that I presented  
 17 this information to him and this is their response.  
 18 MS. MEHRABAN: Was there anything else you recall  
 19 about that conversation or his reaction?  
 20 THE WITNESS: His reaction, I think he had the  
 21 same concerns I did. I just said we needed to talk, we have  
 22 to review the information, make sure our audit procedures are  
 23 done properly to insure that as auditors we've done as much  
 24 as we can, the best we can.  
 25 Q The e-mail says "I will call you tonight."

1 A Yes.

2 Q Did you have a call with Swanandi about it?

3 A Yes, we did, we had a discussion regarding those

4 discussions. I told her about my discussions with the

5 partners and what their responses were to her.

6 Q What was her response to what you told her?

7 A I think her initial reaction was acceptance since

8 all the partners kind of had the same response, that they

9 acknowledged the information that we'll continue the process

10 and based on what we know now he does have that issue in the

11 past but he's not doing anything that we are aware of that's

12 illegal, that he did anything wrong that we're aware of, so

13 we'll continue with the audit process.

14 Q Moving to Exhibit No. 44, the same day, November

15 5, 2012, it says "Hello, this one is both Diane Dalmy and

16 Briner," did you click on the link and read the information?

17 A Yes.

18 Q Did that raise any other concerns?

19 A No, it raised similar concerns.

20 Q But this one includes Diane Dalmy.

21 A Yes.

22 Q Did you have any concerns about her involvement in

23 light of what you read in this link in light of what you said

24 about her drafting the S-1 registration statement?

25 A It raised the same concerns because I looked

1 A We had two separate conversations, one was

2 regarding the information she found on what her thoughts were

3 on that.

4 Q Why don't you tell us about that conversation as

5 best you can recall.

6 A Basically she asked me did you get a chance to

7 review the information and I said yes, but not deeply yet but

8 I will review it and I asked her what her thoughts were on

9 the information and then what to look for what the main

10 issues were and then the next couple days –

11 Q What did she answer to that?

12 A She had concerns about the information she found

13 related to John Briner and her prior history with the SEC.

14 Q What were her concerns?

15 A I can't recall specifically but that John Briner,

16 what they're doing might be iffy, may not be – based on the

17 understanding of what they've done in the past there might be

18 concerns with what they're doing right now.

19 Q And in connection specifically with the audits

20 that she was working on.

21 A Yes, she did address that.

22 BY MR. SUNSHINE:

23 Q Just really quick, is it partly related to that

24 she found and did some background search and saw that Diane

25 Dalmy and John Briner had been linked in connection with some

1 through all of them at the same time pretty much, so it

2 raised the same concerns.

3 Q So nothing specific to Diane Dalmy.

4 A I can't recall, I think she may have red flags on

5 the SEC as well, I can't remember now.

6 Q I'm referring to the link that was included in

7 this e-mail.

8 A Yes.

9 Q Do you have a recollection about what you read in

10 clicking that link?

11 A Nothing specific, no, I can't recall.

12 Q Moving to Exhibit No. 45, it's dated November 7th,

13 two days later, from Swanandi Redkar, what about – what do

14 you understand about this e-mail?

15 BY MS. MEHRABAN:

16 Q Just to make sure I understand the timing, would

17 this e-mail have been after you had your conversation, your

18 initial conversation with Swanandi and after you spoke to

19 DeJoya and Griffith?

20 A This e-mail was after I spoke to Swanandi. I

21 think it was after – this was before I spoke with Arthur and

22 Jason.

23 Q Initially I think you testified earlier that in

24 your conversation with Swanandi you told her what DeJoya and

25 Griffith had said.

1 kind of pump and dump, other pump and dump schemes? If you

2 look back at Exhibit No. 44, the first part of the link says

3 pumpanddumps.com.

4 A Yes.

5 Q And above that she says "This one lists both Diane

6 Dalmy and Briner."

7 A Right.

8 Q What led to her concern, correct me if I'm wrong,

9 that because these two were paired that could also be

10 happening here?

11 A Correct.

12 Q Yes. Was that a concern you raised when you spoke

13 with Griffith and DeJoya?

14 A Yes, I had a concern that both John and Diane were

15 involved with these other entities that we were working on as

16 well.

17 Q And what was Griffith's response to that?

18 A He acknowledged the information, he acknowledged

19 that they have been prohibited by the SEC and asked me what

20 are we doing currently right now and I explained to him we're

21 doing the audit for these entities, multiple entities,

22 they're doing mining exploration companies. We gave them a

23 background of the entities that we were working on, what

24 we're doing right now and what's involved and he asked me is

25 there anything that we noted that we raised concerns about

1 and I told him a couple things, that the staff addressed,  
2 concerns about John Briner controlling everything, having all  
3 the access of the information.

4 Q Did you relate to him that on quality issuers  
5 Diane Dalmy was listed as an attorney?

6 A I believe so, yes. I mentioned Diane was the  
7 attorney on all these issuers.

8 Q Did you forward these e-mails to DeJoya or  
9 Griffith?

10 A No, I did not, I just printed out the information  
11 that I reviewed and I presented it to him, I showed him the  
12 information.

13 Q Did you print up the links that are in each of  
14 these three exhibits, No. 43, 44 and 45?

15 A I printed out -- when I clicked on the link,  
16 whatever the information from those links, I printed  
17 the -- I mean highlighted the main points of those links, the  
18 information.

19 Q And then you brought that to a face to face  
20 meeting with Griffith?

21 A Both Jason Griffith and Arthur DeJoya, yes.

22 Q Separately.

23 A Separately.

24 Q So two separate meetings where you presented the  
25 documents you had printed up and highlighted and then

1 the issuers after receiving the subpoena from the SEC. Why?

2 A Well there are several reasons, number one, the  
3 subpoena. We realized that it's not good to get a subpoena  
4 from the SEC related to these clients and then we also looked  
5 at the fact that we did have concerns related to these  
6 entities in relationship to John Briner.

7 Q By concerns you mean the concerns that the staff  
8 raised to you that you then conveyed.

9 A Yes, those were there.

10 Q Also we were having difficulty getting information  
11 from John Briner going forward with the processes and he  
12 wasn't very responsive when we requested further information  
13 to move the review or the audit process, the S-1 process  
14 further, that as well.

15 Q So the date on this letter is July 2, 2013, this  
16 is the date on Exhibit No. 46?

17 A Right.

18 Q All of the issuers audits, DeJoya Griffith and  
19 yourself as lead partner on the issuers' audits were all  
20 signed off well before July 2, 2013. Is that correct?

21 A Yes.

22 Q So is it -- correct me if I'm wrong but it seems  
23 like the issues that you mentioned, the issues, the concerns  
24 about John Briner and the concerns about getting information  
25 from John Briner did not cause DeJoya Griffith to resign from

1 discussed it with them.

2 A Yes.

3 Q Just two separate meetings.

4 A Two separate meetings, yes.

5 Q Did there come a time where DeJoya Griffith  
6 resigned from as being the auditor for the issuers?

7 A For these issuers that we're talking about? Yes,  
8 we did resign.

9 Q When was that?

10 A I think right after we got the subpoena from you.

11 Q "You" meaning the SEC?

12 A The SEC, yes.

13 MR. SUNSHINE: Let me mark this as an exhibit.  
14 I'm marking a document Exhibit No. 46.

15 (Commission Exhibit No. 46  
16 marked for identification.)

17 Q I'm handing Exhibit No. 46 to you.  
18 (Witness perusing document)

19 Q This appears to be an example of a resignation  
20 letter from DeJoya Griffith.

21 A Yes.

22 Q Is that accurate?

23 A That's correct.

24 Q Now you were saying that this was -- that DeJoya  
25 Griffith determined to resign from the audit as auditor for

1 the audit because you didn't resign until after you received  
2 the subpoena.

3 A Correct.

4 Q And after the audits were already signed off and  
5 filed on Edgar.

6 A That's correct.

7 Q Is it fair to say that maybe the reason was  
8 concerns over receiving the SEC subpoena that caused DeJoya  
9 Griffith to resign?

10 A That is the main reason that we resigned, yes, but  
11 we were having difficulty getting information from a client.  
12 There might be e-mails or conversations with the staff that  
13 if we don't get responses from them that we're going to  
14 resign as auditors. We were trying for several months to get  
15 information about moving the work forward, so we were not  
16 getting responses from John but I think the ultimate decision  
17 was made when we got the letter from the SEC that they were  
18 being investigated.

19 MR. ADDISON: Did the issuers owe you money?

20 THE WITNESS: Yes, I think the ones that we're  
21 talking about, they all owed the \$500 pending payment, \$500.

22 MR. ADDISON: Each.

23 THE WITNESS: Each, yes.

24 MS. MEHRABAN: What was that for?

25 THE WITNESS: Reviewing the S-1. We normally

1 dated August 24, 2012. Have you seen this document before?  
 2 A Yes.  
 3 Q And where have you seen this document?  
 4 A In our work paper files.  
 5 Q So independent of the e-mail you're familiar with  
 6 this particular document.  
 7 A Yes.  
 8 Q I draw your attention to the last paragraph, it  
 9 says "As of the date of inception and up to the present date  
 10 the company was not indebted to us for services and expenses  
 11 (billed or unbilled) of which we are aware." Do you see  
 12 that?  
 13 A Yes.  
 14 Q Now we discussed earlier that John Briner was  
 15 providing accounting services to the issuers.  
 16 A Yes.  
 17 Q Among other services.  
 18 A Right.  
 19 Q Now are you aware of whether he billed for that  
 20 service?  
 21 A No, I'm not aware.  
 22 Q Have you asked during the time of the audit what  
 23 he billed for his services?  
 24 A I did not ask but I assume our staff would have  
 25 asked.

1 were related party?  
 2 A Between John Briner and entities that we're  
 3 auditing?  
 4 Q Yes.  
 5 A We were making it clear to John Briner as far as  
 6 his role with the entity, did he make any management  
 7 decisions related to the company, to see if he had any  
 8 ownership of the company.  
 9 Q And then you determined that he did not make  
 10 management decisions for the company?  
 11 A That's our understanding, correct.  
 12 Q And that was based on information that John Briner  
 13 told you. Correct?  
 14 A Yes.  
 15 Q Did you ever ask any of the owners whether or not  
 16 John Briner made management decisions for the issuers?  
 17 A I did not.  
 18 Q Did any of your staff?  
 19 A I believe they -- I don't know.  
 20 Q Had they done that do you think they would have  
 21 brought that to your attention?  
 22 A Yes.  
 23 Q But your recollection is you don't remember any of  
 24 your staff bringing that issue to your attention?  
 25 A That's correct.

1 Q Sitting here today knowing that John Briner  
 2 provided services to the issuers before the date of this  
 3 memo, August 24, 2012, is this assertion accurate?  
 4 A Can you ask that question again.  
 5 Q Sure. Was there any unbilled services that Metro  
 6 West provided to the issues before August 24, 2012?  
 7 A Not that I'm aware of. Could there have been,  
 8 yes.  
 9 Q What does it mean to you that there would be  
 10 services that were not yet billed for?  
 11 A That they performed services but they have not  
 12 issued an invoice to the client.  
 13 Q And before August 24, 2012 did Metro West provide  
 14 services to the issuers?  
 15 A I don't know, they could have.  
 16 Q And if they did, would that constitute services  
 17 that were unbilled if they didn't provide an invoice?  
 18 A Yes.  
 19 Q Why didn't you ask for how much the issuers owed  
 20 Metro West for Metro West's services?  
 21 A I don't know.  
 22 Q Did you ever consider that Metro West could be a  
 23 related party in transactions with the issuers?  
 24 A Yes.  
 25 Q And what did you do to test whether or not they

1 MR. SUNSHINE: Maybe we can take a break. We're  
 2 going of the record at 4:10 p.m., November 5, 2013.  
 3 (Whereupon, a recess was taken.)  
 4 MR. SUNSHINE: We're back on the record at 4:19  
 5 p.m., November 5, 2013. We did not have any substantive  
 6 discussions regarding your testimony during the break.  
 7 Correct?  
 8 THE WITNESS: Correct.  
 9 MR. SUNSHINE: I'm marking this document as  
 10 Exhibit No. 71.  
 11 (Commission Exhibit No. 71  
 12 marked for identification.)  
 13 Q I'm providing Exhibit No. 71 to you. It says on  
 14 the top "Quality Review Partner Approval Form" on it. Do you  
 15 recognize this form?  
 16 A Yes.  
 17 Q What is it?  
 18 A It's our concurring partner review form.  
 19 Q And on the top it says Tuba City Gold, does that  
 20 mean this is the form for Tuba City Gold?  
 21 A That's correct.  
 22 Q And below that it says "Reviewing Partner,  
 23 Phillip." Who is that?  
 24 A That would be me.  
 25 Q And next to that "Returned completed form to

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1 Swanandi/Phillip."  
 2 A Yes.  
 3 Q Who is that directed towards, who would be  
 4 returning it?  
 5 A The concurring review partner.  
 6 Q And turning to the next page, at the bottom where  
 7 it says Quality Review Partner there's a signature.  
 8 A Yes.  
 9 Q Whose signature is that?  
 10 A That's Jason Griffith's signature.  
 11 Q And you recognize his signature?  
 12 A Yes.  
 13 Q You've seen it before on other documents?  
 14 A That's correct.  
 15 Q And it's dated December 17, 2012.  
 16 A Yes.  
 17 Q What does it mean where it says – there's  
 18 handwriting saying MH Billed .75?  
 19 A The MH stands for Marlene Hutchinson, she billed  
 20 the time for the concurring partner review time which is .75  
 21 hours.  
 22 Q And does that reflect how long Jason Griffith  
 23 reviewed the documents that he reviewed and signed this?  
 24 A Yes.  
 25 Q And where it says in the box above the first

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1 signature "Documentation provided to Quality Reviewer," is  
 2 that a list of the documents that the reviewer would have  
 3 reviewed?  
 4 A Yes.  
 5 Q And in that I see a number of documents, he would  
 6 have reviewed the adjusting journal entries. Is that right?  
 7 A Yes.  
 8 Q And the final TB, what does that mean?  
 9 A TB stands for trial balance.  
 10 Q Okay, and he would have also reviewed the S-1.  
 11 A Yes.  
 12 Q And the S-1 contains among other things financial  
 13 statements. Does that mean he would have also reviewed the  
 14 financial statements?  
 15 A That's correct.  
 16 Q For Tuba City Gold?  
 17 A Yes.  
 18 Q Did you review the S-1 financial statements for  
 19 Tuba City Gold before it was filed?  
 20 A Yes.  
 21 Q And that would include the financial statements?  
 22 A Yes.  
 23 Q And once you reviewed it, you then provided your  
 24 sign-off to the financial statements that are contained in  
 25 the Tuba City Gold Corp. S-1?

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1 A Yes.  
 2 Q And then after you provide your sign-off, is that  
 3 when in your mind it's okay for the issuer to file the S-1  
 4 with the SEC?  
 5 A No, once I review it and I'm okay with it, it goes  
 6 to the concurring partner.  
 7 Q And the concurring partner going back to Exhibit  
 8 No. 71, that would be Jason Griffith?  
 9 A Yes.  
 10 Q Then he reviews the S-1 as well?  
 11 A Yes.  
 12 Q And then once he signs off, then it's okay for the  
 13 issuer to file the S-1 with the SEC?  
 14 A Yes, we would be able to give consent to file  
 15 assuming we received all the requested documents, in this  
 16 case we would be signing the rep letter from the client,  
 17 usually that's the last remaining item that we give.  
 18 Q And then you give consent to file, some kind of  
 19 document that allows the issuer to file?  
 20 A Yes, we provide a consent letter and an e-mail  
 21 that says this is a consent, you have our consent to file.  
 22 Q And presumably that was done in the case of Tuba  
 23 City Gold Corp. Correct?  
 24 A Yes.  
 25

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1 Q Because it was actually filed with the SEC?  
 2 A That's correct.  
 3 Q What would happen if in reviewing the S-1 for Tuba  
 4 City Gold Corp. you had encountered an inaccurate financial  
 5 statement, what would you have done?  
 6 A I would have requested that the inaccurate  
 7 information be corrected, revised to reflect the correct  
 8 information prior to being given the consent to file.  
 9 Q And would Jason Griffith have done the same?  
 10 A Yes.  
 11 Q In reviewing the financial statements for any S-1  
 12 filed, would you check the math of the financial statements?  
 13 A Yes.  
 14 Q Was that done in the case of Tuba City Gold Corp.?  
 15 A Yes.  
 16 Q And would Jason Griffith have done the same kind  
 17 of analysis?  
 18 A Yes.  
 19 Q And corrected the math.  
 20 A Yes, if there were indications of any financial  
 21 information that was not accurate, yes, we would make a  
 22 comment and make a note to let them know to make that change.  
 23 MR. SUNSHINE: We have no further questions at  
 24 this time. We may, however call you again to testify in this  
 25 investigation, should that be necessary we will contact you.

1 Is there anything you'd like to clarify that you said today?  
 2 THE WITNESS: There were some documents you were  
 3 going to ask me to get, some additional documents.  
 4 MR. SUNSHINE: Yes.  
 5 THE WITNESS: I'll verify that those documents  
 6 are available and provide those to you.  
 7 MR. SUNSHINE: And just to reiterate what those  
 8 documents are we now have a list of four. The first one was  
 9 your calendar that would reflect the various conference calls  
 10 we discussed, so we would request that for the full time  
 11 period of the audit which I would believe is roughly let's  
 12 say January 1 -- let's say June of 2011 through December of  
 13 2012. Actually no, scratch that, until filing, the final  
 14 filing. The last filed was January 8th I believe, so  
 15 somewhere to the last filing.  
 16 THE WITNESS: Okay.  
 17 MR. SUNSHINE: The second was -- you mentioned  
 18 certain legal letters that Diane Dalmy provided. So whatever  
 19 documents, we would just say any documents related to Diane  
 20 Dalmy, if you provide those.  
 21 THE WITNESS: I'd just have to clarify that, I'm  
 22 not sure whether or not she provided, I assume that she  
 23 provided them.  
 24 MR. SUNSHINE: I'm sorry, it was what would have  
 25 been her confirmation letters.

1 THE WITNESS: Right.  
 2 MR. ADDISON: The legal letters.  
 3 MR. SUNSHINE: The legal letters. I understand  
 4 you don't know but we're saying you're going to check and  
 5 tell us whether or not you have those.  
 6 THE WITNESS: Correct.  
 7 MR. SUNSHINE: The third was the bank statement  
 8 of the trust account that you mentioned.  
 9 THE WITNESS: Yes.  
 10 MR. ADDISON: For all the issuers.  
 11 THE WITNESS: Yes.  
 12 MR. SUNSHINE: For all the issuers.  
 13 THE WITNESS: The trust accounts, related to the  
 14 trust accounts, yes.  
 15 MR. SUNSHINE: Yes. Then the last was the  
 16 adjusting journal entry for the fees paid to management.  
 17 MR. ADDISON: I'm sorry, for the fees paid to  
 18 DeJoya, for the deposits.  
 19 THE WITNESS: That should have been recorded,  
 20 yes.  
 21 MR. SUNSHINE: I was incorrect, not management,  
 22 what Jim just said.  
 23 THE WITNESS: Audit fees, yes.  
 24 MR. ADDISON: Do you need me to name those  
 25 entities again?

1  
 2  
 3 THE WITNESS: No, I know the entities and to  
 4 clarify, the reason why it may not have been recorded is our  
 5 understanding -- our audit services have not been performed  
 6 at the time we received the payment yet. So that's why we  
 7 may not have recorded a journal entry, to reflect -- we  
 8 didn't provide any services, we just received the payment,  
 9 there were no services provided by our firm.  
 10 MR. SUNSHINE: Like a retainer?  
 11 THE WITNESS: Yes, it was a retainer and the  
 12 reason why I'm now remembering why we didn't book a journal  
 13 entry for that audit fee to reflect on our financial  
 14 statements, we did not provide any audit services at that  
 15 time.  
 16 MR. ADDISON: To be clear, the issue is not of  
 17 expense, the issue is of cash, it's the amount of cash that  
 18 was transferred to your organization that is not reflected on  
 19 the books and records of the entity. If they had booked it  
 20 as a reduction of cash and perhaps a receivable due from you,  
 21 I'd understand but just to be clear. Everything I just said  
 22 is an example.  
 23  
 24  
 25

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 5 MR. SUNSHINE: That's all we have,  
 6 MS. MEHRABAN: We don't have any further  
 7 questions for today, if we have additional questions we'll  
 8 get back in touch with you and schedule a new session.  
 9 MR. SUNSHINE: We're off the record at 4:29 p.m.,  
 10 November 5, 2013.  
 11 (Whereupon, at 4:29 p.m., the examination was  
 12 concluded.)  
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CERTIFICATE

I, Peggy Miller, hereby certify that the foregoing transcript consisting of 193 pages is a complete, true and accurate transcript of the investigative hearing, held on Tuesday, November 5, 2013, at New York, New York, in The Matter of LA PAZ Mining Corp., Case #NY-8922. I further certify that this proceeding was recorded by Nicole Pino and that the foregoing transcript has been typed and proofread by me.

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PROOFREADER'S CERTIFICATE

In the Matter of: LA PAZ Mining Corp.  
Witness: Phillip Zhang  
File Number: NY-8922  
Date: November 5, 2013  
Location: 3 World Financial Center  
New York, New York

This is to certify that I, Peggy Miller, the undersigned, do hereby swear and affirm that the attached proceedings before the United States Securities and Exchange Commission were held according to the record and that this is the original, complete, true, and accurate transcript that has been compared to the reporting or recording accomplished at the hearing.

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RECORDER'S CERTIFICATE

I, Nicole Pino, recorder, hereby certify that the foregoing transcript of 193 pages is a complete, true, and accurate transcript of the testimony indicated, held on November 5, 2013, at 3 World Financial Center, New York, New York, in the matter of: Herbalife  
I further certify that this proceeding was recorded by me and that the foregoing transcript was prepared under my direction.

\_\_\_\_\_  
Official Reporter:                      DATE

# **EXHIBIT**

**5**

1 UNITED STATES SECURITIES AND EXCHANGE COMMISSION

2 In the Matter of: )

3 La Paz Mining Corp. ) File No. NY-8922

4 )

5 WITNESS: Christopher Whetman

6 PAGES: 1 through 204

7 PLACE: Securities and Exchange Commission

8 3 World Financial Center

9 New York, New York 10281

10 DATE: Monday, November 4, 2013

11 The above-entitled matter came on for hearing,

12 pursuant to notice, at 9:38 a.m.

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1 APPEARANCES:

2 On behalf of the Securities and Exchange Commission:

3 JAMES ADDISON, ESQ.

4 LARA MEHRABAN, ESQ.

5 JASON SUNSHINE, ESQ.

6 Division of Enforcement

7 Securities and Exchange Commission

8 3 World Financial Center

9 New York, New York 10281

10 On behalf of the witness:

11 CHRIS WHETMAN, (PRO SE)

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1 PROCEEDINGS

2 MR. SUNSHINE: We are on the record at 9:38 a.m.,  
3 November 4, 2013.

4 Whereupon,

5 CHRIS WHETMAN,

6 was called as a Witness in this matter, and after having been  
7 sworn, was examined by counsel and testified further as  
8 follows:

9 MR. SUNSHINE: Please state and spell your name.

10 THE WITNESS: My name is Chris Whetman, C H R I S,  
11 Whetman, W H E T M A N.

12 MR. SUNSHINE: I am Jason Sunshine. This is Lara  
13 Mehraban, and Jim Addison. We are officers of the Commission  
14 for the purpose of this proceeding.

15 This is an investigation by the U.S. Securities and  
16 Exchange Commission In the Matter of La Paz Mining, Number  
17 NY-8922, to determine whether there have been violations of  
18 certain provisions of the federal securities laws. However,  
19 the facts developed in this investigation might constitute  
20 violations of other federal or state, civil or criminal laws.

21 Prior to the opening of the record, you were  
22 provided with a copy of the Formal Order of Investigation.  
23 It will be available for your examination during the course  
24 of this proceeding.

25 Have you had the opportunity to review the Formal

1 break, will you let me know?  
 2 THE WITNESS: Yes.  
 3 MR. SUNSHINE: Also, if there is a question  
 4 pending, will you answer the question before we take a break?  
 5 THE WITNESS: Yes.  
 6 EXAMINATION  
 7 BY MR. SUNSHINE:  
 8 Q So let's just start with your background. Let's  
 9 start with where you went to college?  
 10 A I went to college at Southern Utah University in  
 11 Cedar City, Utah. I received my Bachelor's Degree there. I  
 12 also received my Master's Degree there. After graduation, I  
 13 went to work for KPMG Peat Marwick.  
 14 Q What year did you graduate college?  
 15 A In '93 I believe.  
 16 Q And what did you get your Master's in?  
 17 A Accounting. I went to work for KPMG. I worked  
 18 with KPMG for almost five years.  
 19 After KPMG, I went out and worked in (inaudible)  
 20 Reporting Departments for, there were a couple of companies  
 21 between there. Ultimately I ended up back in public  
 22 accounting with Price Waterhouse Cooper, about 10 years ago.  
 23 I've been with De Joya Griffith for a little over 3 years  
 24 now.  
 25 Q So backing up, when did you start with De Joya

1 Griffith?  
 2 A Just over 3 years ago. It was in September of  
 3 2009. Yes, I believe so.  
 4 Q And what licenses do you have?  
 5 A I have a CPA license.  
 6 Q In what state?  
 7 A In Nevada.  
 8 Q What about continuing professional education?  
 9 A That's required, and I perform that every year.  
 10 Q And maybe you can explain a little how you came, in  
 11 more detail, how you came to work at De Joya Griffith.  
 12 A One of the family partners, Arthur De Joya, a  
 13 friend of mine, worked together at KPMG. We got to know each  
 14 other really well. I ran into him for lunch probably 3 «  
 15 years ago, 4 years ago, and I ended up contacting him after  
 16 that and asking him if he was looking for anybody and made a  
 17 decision to join the firm.  
 18 Q Where were you just prior to that working?  
 19 A I was working for a company called Aristocrat.  
 20 Q And why did you decide to leave Aristocrat?  
 21 A I left Aristocrat, it was just a difficult  
 22 environment to work in frankly.  
 23 Q Why was that?  
 24 A Lots of pressure with a lot of direct reports, very  
 25 little ability to affect change, and I decided it wasn't the

1 place for me.  
 2 Q Moving on to La Paz Mining Corp., one of the  
 3 entities you saw in our Formal Order. Were you the lead  
 4 partner for that audit?  
 5 A I was the partner assigned to that audit.  
 6 Q And who was the concurring partner?  
 7 A I believe it was Jason Griffith. I would have to  
 8 look at the file.  
 9 Q And maybe you can give me some background on how  
 10 you came to do that audit.  
 11 A I assigned - when work comes into our firm,  
 12 whoever leads the effort in working with either the attorneys  
 13 or the consultants that refer the work in the business and  
 14 ultimately end up being assigned to the partners that  
 15 actually do the work which would be myself, Philip Zhang and  
 16 Marlene Hutchinson.  
 17 Q So do you know how this issuer came to De Joya  
 18 Griffith?  
 19 A No, I don't.  
 20 Q And I'm sorry, can you explain again how you were  
 21 particular assigned to this?  
 22 A Because I had availability, so it got assigned in  
 23 my schedule.  
 24 Q Maybe you can describe how La Paz, and when I say  
 25 La Paz I mean La Paz Mining Corp., the issuer, how, what was

1 the client acceptance process for that.  
 2 A The client acceptance process I couldn't tell you  
 3 because that was completed before I was assigned, so I don't  
 4 know specifically what was performed in connection with  
 5 acceptance.  
 6 Q So it was accepted before you were involved?  
 7 A Yes.  
 8 Q So did you have anything to do with background  
 9 checks relating to any of the people associated with La Paz?  
 10 A No.  
 11 Q Did you have any concerns before the assignment?  
 12 A No.  
 13 Q Do you know who was responsible for the client  
 14 acceptance policies?  
 15 A The policies?  
 16 Q Well, in accepting La Paz.  
 17 A In accepting La Paz, I believe it was Arthur De  
 18 Joya and Philip Zhang that had the connection and did the  
 19 acceptance procedures.  
 20 Q Can you tell me typically and in general for De  
 21 Joya how staffing works? You described a little bit about  
 22 yourself as a partner, but what about the staff that works on  
 23 the audit? How do they get assigned?  
 24 A Considering the complexity of the engagement, it  
 25 gets assigned based on staff that has the expertise to serve

1 A Not that I'm aware of, specifically with the  
 2 experience in British Columbia.  
 3 Q Moving to Number 7 on Page Bates Number 11420.  
 4 Number 7, "Does it appear that the company's financial  
 5 reporting system is insufficient to provide evidence to  
 6 support that transactions have occurred and that all the  
 7 transactions that should be recorded are in fact recorded (A  
 8 'Yes' answer precludes the auditor firm from accepting  
 9 engagement)". The answer column is marked X.  
 10 A Yes.  
 11 Q I'm sorry, marked yes. That obviously on its face  
 12 seems to be a bit of a contradiction. Can you speak to that?  
 13 A It does, and I'm not sure that I have a complete  
 14 understanding of that, meaning what this is getting at is  
 15 whether or not the company has a reporting system in place,  
 16 they have a general ledger in place, are they using  
 17 accounting software like Quick Books and can they support  
 18 their transactions. In this case, La Paz Mining did have an  
 19 accounting system in place, and they had the ability to send  
 20 us supporting documents, so I would have said no on this  
 21 question. I'm not sure why that was answered as a yes.  
 22 Q Do you know who answered it?  
 23 A I don't. I would assume Rajiv.  
 24 BY MR. ADDISON:  
 25 Q I'm sorry. Do you believe that La Paz had an

1 high enough level to complete a document such as this, answer  
 2 the questions Yes and No?  
 3 A Some of the questions, yes. Some of the other  
 4 questions would be more appropriately by a partner.  
 5 Q How would we know what was done by a partner and  
 6 what was done by Rajiv?  
 7 A I would have to go question by question and tell  
 8 you whether or not that was something that he did or he  
 9 filled it in and was looking for confirmation by the partner.  
 10 MR. SUNSHINE: Please mark this as Exhibit 3.  
 11 (Exhibit Number 3 was so  
 12 marked for identification.)  
 13 MS. MEHRABAN: And just for the record, Rajiv is R  
 14 A J I V, Zanwar, Z A N W A R.  
 15 BY MR. SUNSHINE:  
 16 Q I'm handing you what has been marked as Exhibit  
 17 Number 3. It is another document from the accounting  
 18 software that you use. Do you recognize this document?  
 19 A Yes.  
 20 Q Can you describe it?  
 21 A It is a Team Discussion document.  
 22 Q And at the top, I see it says Completed by Rajiv  
 23 Zanwar. What does that mean, that he completed it?  
 24 A That he filled in the information, and the  
 25 information was discussed with the other members of the team.

1 accounting system in place?  
 2 A Yes.  
 3 Q And it was on the accounting system of Metro West?  
 4 A The general ledger was supplied to us by Metro  
 5 West, and Metro West was recording the transactions within  
 6 that set of records.  
 7 Q And Metro West, were they doing the debits and  
 8 credits?  
 9 A My understanding is yes.  
 10 Q As per the instruction of Irizarry?  
 11 A I don't know for sure.  
 12 MS. MEHRABAN: Do you recall discussing with Rajiv  
 13 or anyone else the Yes answer?  
 14 THE WITNESS: No.  
 15 MR. SUNSHINE: In Number 8, I won't read the whole  
 16 thing, I will just paraphrase that it regards concerns over  
 17 management's integrity. I know that we touched on this. Do  
 18 you have anything to add about that? It appears that  
 19 everything is marked No, that they had no concerns about  
 20 management integrity.  
 21 THE WITNESS: No, I don't have anything to add.  
 22 BY MR. ADDISON:  
 23 Q I just want to get your opinion on having -  
 24 A Rajiv is how I pronounce it.  
 25 Q - Rajiv doing the work. Do you think he was at a

1 Q And this document reflects the discussion about La  
 2 Paz Mining Corporation?  
 3 A Yes.  
 4 Q And who was present at the meeting?  
 5 A Swanandi and Rajiv and (inaudible).  
 6 Q And that meeting took place on May 23, 2012?  
 7 A Yes.  
 8 Q And were you present at the meeting?  
 9 A No, I wasn't. The results of the meeting were  
 10 shared with me via e-mail, and Swanandi and I discussed it on  
 11 the phone.  
 12 Q We can talk about that in a minute. Starting with  
 13 Number 2, reading the second sentence in Number 2, "In  
 14 meeting, we have discussed significant accounting and audit  
 15 areas and potential progress was discussed. We identified  
 16 that the company was a start-up company and had no  
 17 operations. The company had one officer and director,  
 18 however the accounting function is separated by outsourcing  
 19 to the consultant outside the entity, thereby reducing the  
 20 chances of management override controls. Also there is no  
 21 revenue, there is no risk of revenue recognition. Note that  
 22 the above items were discussed with the engagement partner.  
 23 Just taking that in pieces, what risks would be associated  
 24 with the fact that the company is a start-up and has no  
 25 operations?

1 A It's ability to continue as a going concern.  
 2 Q Were there any others?  
 3 A Its ability to finance its plan.  
 4 Q Anything else?  
 5 A A risk of overseeing assets.  
 6 Q Anything else?  
 7 A That's it.  
 8 Q In the second sentence that refers to the  
 9 consultant, who is the consultant?  
 10 A My understanding is Metro West law firm.  
 11 Q And when it says outside entity, that's also  
 12 referring to Metro West?  
 13 A Yes.  
 14 Q And Metro West is run by John Briner?  
 15 A That's my understanding.  
 16 Q And what is the basis for saying this reduces the  
 17 chances that management will override controls?  
 18 A If the journal entries are being recorded by  
 19 another entity, it does somewhat reduce the risk that  
 20 management is just going to book, increase the way they'd  
 21 like to see their plans -  
 22 Q And why is that?  
 23 A Because somebody else is booking the entries.  
 24 Q So help me understand that. Why would the fact  
 25 that somebody else is booking the entries reduce what

1 A I don't have any other than the actual transactions  
 2 that we were provided.  
 3 Q Did you ever see if there was an auditing report  
 4 done on Metro West about -  
 5 A Never.  
 6 Q - particular controls?  
 7 A No.  
 8 Q Did you ever perform any of the transactions that  
 9 Metro West recorded?  
 10 A We selected the significant transactions, and we  
 11 asked for supporting documents which would be the contracts,  
 12 which would be the Board resolutions, which would be a copy  
 13 of the cancelled check. With La Paz, there were only a  
 14 handful of transactions. We tested I would say a majority of  
 15 those transactions, and there are audit procedures that we  
 16 would do after a balance sheet date to look and make sure  
 17 that expenses are complete, that liabilities are complete.  
 18 Those are areas that there would be a reason for management  
 19 to want to understate, liabilities overstate assets,  
 20 overstate revenues, understate expenses, so we would ask for  
 21 information after the balance sheet date which is primarily  
 22 disbursement information.  
 23 Q So you would take the evidence provided by Metro  
 24 West and evaluate it, and tell me if this is fair, evaluate  
 25 it to determine whether or not it met your test of the

1 management tells that entity what the transactions are?  
 2 A Well, I think that I can speak for accounts where  
 3 we do the accounting, where we record the entries based on  
 4 support that's been provided, either bank statements,  
 5 invoices, contracts. We don't simply book an entry that  
 6 management says hey, I want to record revenue or hey I think  
 7 expenses should be X. We only book the stuff that can be  
 8 supported by the company. That's what I believe that  
 9 statement means.  
 10 Q How do you know that's what Metro West was doing  
 11 with La Paz Mining, what you just described?  
 12 A I don't know for sure, but when we do the audit, we  
 13 ask for support for significant transactions, and we receive  
 14 copies of contracts, cancelled checks, agreements and Board  
 15 resolutions.  
 16 Q Okay, so I guess if this is accurate tell me, that  
 17 you would rely on the evidence provided from Metro West to  
 18 form your opinion on the transactions.  
 19 A Let me make sure I understand. You're saying that  
 20 we're relying on evidence provided by - yes, so long as the  
 21 evidence supports the amount in the financial statements,  
 22 that would be correct.  
 23 Q Yes, that's what I'm saying. As far as the - let  
 24 me take a step back. What confidence did you have that Metro  
 25 West had the ability to do the accounting of La Paz Mining?

1 transaction?  
 2 A I can't form a legal opinion of the document, but  
 3 -  
 4 Q I'm not asking for a legal opinion.  
 5 A What I can do is tell you whether or not that  
 6 document supported the way those transactions were accounted  
 7 for.  
 8 Q Did you ever reconcile Metro West's work on La Paz  
 9 with company general ledgers or accounting?  
 10 A No. Let me understand that. The only part that I  
 11 understand with Metro West is the trust account. My  
 12 understanding from John is there was a trust account; it's a  
 13 Metro West bank account, and he would keep track of his  
 14 clients' funds that were put into that trust account, and he  
 15 would make disbursements out of, so you would have cash  
 16 receipts going in and disbursements coming out of, and that  
 17 is a Metro West bank account, and he had a trust because he's  
 18 got a responsibility to keep track of which client does each  
 19 of these inflows and outflows relate to. He kept a statement  
 20 that would show the amounts related to La Paz Mining. That's  
 21 the information we would receive from Metro West.  
 22 Q So your understanding is the company did not keep  
 23 its own general ledger and record its own transactions. That  
 24 function was with Metro West.  
 25 A I believe so.

<p style="text-align: right;">Page 45</p> <p>1 Q So there was one La Paz general ledger that was 2 kept by Metro West. 3 A I believe so. There's the general ledger and then 4 the trust which is where he's keeping track of how much cash 5 within the bank account related to La Paz. 6 Q Right. The trust account, that contains the funds 7 of multiple companies or multiple of his own clients. What's 8 your understanding of what's in that trust account? 9 A John referred to it as a pool account so I asked 10 him what really does that mean, and how do I know what really 11 relates to La Paz Mining. He had the trust statement, and I 12 asked him to send us the trust statement which he did via e- 13 mail. 14 Q And the trust statement is what you relied on to 15 reconcile the company's, - 16 A We asked for the contracts, and we asked for 17 cancelled checks, and then I asked for bank statements for 18 Metro West so that I could see the actual cash disbursement. 19 Q So what I'm hearing, and tell me if this is 20 accurate, you asked for and received a trust account 21 statement. 22 A Yes. 23 Q You also asked for and received cancelled checks? 24 A Yes. 25 Q And you asked for and received a set of contracts</p>	<p style="text-align: right;">Page 47</p> <p>1 Q Can I - what accounts refer to (inaudible), and I 2 think my colleague did a fine job of - I want to just ensure 3 that you didn't do any other work. For example, did you get 4 any kind of policy and procedures manual from Metro West? 5 A No. 6 Q You said you did not get a contract. Is that 7 right? 8 A Correct. 9 Q Did you get any system overviews to the account? 10 A No. 11 Q Did you get any kind of recourse at all, even if 12 it's not related to a service organization type of report, 13 any other kind of report? 14 A No. 15 Q Okay, and you already said you had no prior 16 experience with them. Is that correct? 17 A Correct. 18 BY MR. SUNSHINE: 19 Q And just to tack onto that line of questioning. 20 Did you ever test the controls between the La Paz Mining and 21 Metro West, like how do you know Charles Irizarry is the 22 executive officer of La Paz and had control over what Metro 23 West was doing? 24 A I didn't test controls. We primarily (inaudible) 25 would test it.</p>
<p style="text-align: right;">Page 46</p> <p>1 relating to, if it was appropriate, what was - 2 A Yes. 3 Q And it's that body of evidence that you relied on 4 - 5 A One more. A bank statement for Metro West. 6 Q Okay, so how does the bank statement differ from 7 the trust account statement? 8 A It shouldn't. 9 Q Okay, so there's a - sorry, but I'm - 10 A So except for the amount that came into the trust 11 statement, it's different, into the bank account it's 12 different than the amount that is showing on the trust 13 statement. That would mean a deposit related to a couple of 14 John's clients as opposed to just one of his clients, in this 15 case La Paz Mining. 16 Q Okay. 17 BY MR. ADDISON: 18 Q Did he give you reconciliation that showed how that 19 deposit agreed into La Paz as well as the other - how that 20 affects La Paz's (inaudible). 21 A No, not like reconciliation, but we discussed 22 differences, and we documented the reason there was a 23 difference in what was shown in the bank statement and the 24 trust statement for the \$30,000 that was contributed to the 25 company.</p>	<p style="text-align: right;">Page 48</p> <p>1 Q And what does that mean? 2 A By looking at actual supporting documents for tax 3 receipts and tax disbursements. 4 Q So you didn't look at any evidence about the 5 communications between La Paz Mining Corp. and Metro West? 6 A No. 7 MR. ADDISON: I'm sorry to bounce back and forth. 8 I just want to clarify. Did you visit the Metro West 9 facilities? 10 THE WITNESS: No. 11 Q And how were transactions authorized? How were La 12 Paz Mining Corp. transactions authorized? 13 A By Charles Irizarry. 14 Q How would that be communicated to Metro West? If 15 Metro West is writing the checks and keeping the books, how 16 was it communicated between Charles Irizarry and Metro West, 17 an authorization to do a transaction? 18 A I don't recall for sure. 19 Q And I know that my colleague asked about this, but 20 maybe you can describe more generally, what controls did 21 Metro West have over the funds in the account, the trust 22 account? 23 A I'm not sure I understand the question. 24 Q Well, I guess who owned the trust account? 25 A The trust account, my understanding based on a</p>

1 phone call with John is that the trust account is owned by  
2 the client, La Paz. The bank account is owned by the law  
3 firm, and then there are a number of participants within  
4 that, as he referred to it, a pooled account.

5 Q Okay, the way I understand what you're saying, and  
6 correct me if I'm wrong, when you refer to the trust account,  
7 you mean La Paz Mining Corp.'s account with John Briner.

8 A Correct.

9 Q And when you refer to bank account, you mean John  
10 Briner's bank account within which he keeps funds for  
11 multiple entities.

12 A Yes, that's my understanding.

13 Q And you're saying that you looked at both trust  
14 account statements and bank account statements?

15 A Uh-huh.

16 Q And reconciled the two.

17 A We didn't actually reconcile the total bank  
18 statement to the trust statement. We looked at the  
19 information in the trust statement to make sure it had  
20 resulted in an inflow or an outflow in the bank statement.

21 Q Okay.

22 A What we wanted to get at is an actual cash receipt  
23 and an actual cash disbursement, because we didn't feel like  
24 there were controls in place that we could rely on for  
25 substantially testing those transactions.

1 Q So what you relied on then in what you just  
2 described is if the trust account statement showed an amount  
3 being paid out, you looked at the bank account statement and  
4 determined if there was a corresponding amount that was going  
5 out, or -

6 A So we would have the trust statement that would  
7 show the inflows and the outflows that were related to La  
8 Paz, and then we would match that up with the bank account  
9 for Metro West that would show the cash receipt or the cash  
10 disbursement, and in the case of the purchase of the uranium  
11 property, we took it a step further and asked for a copy of  
12 the cancelled check so we could see that yes, there was a  
13 check that was written to this exploration, and we asked for  
14 the reverse side so that we could see that it cleared the  
15 bank, and it was also reflected on the bank statement as an  
16 outflow of cash on Metro West's bank account. I forget the  
17 name of the bank. That's the way we were performing the  
18 work.

19 Q But your understanding was John Briner controlled  
20 the bank account statement, so he could do what he wanted  
21 with the funds that were not associated with an issuer in his  
22 bank account.

23 A Right.

24 Q I just want to understand the relationship. Moving  
25 to Number 3 on Exhibit 3, the last page, 11288, the first

1 paragraph, "We plan to test equity with the transfer agent  
2 confirmation and respective Board minutes for the number of  
3 shares issued and the price at which they have been issued to  
4 shareholders and checking of actuality of cash through the  
5 sale of shares through the trust account statement." Why is  
6 it important to get a transfer agent confirmation?

7 A Verification of the shares of an issue.

8 Q And how does a transfer agent help with that?

9 A Well, a transfer agent is a third party that's  
10 responsible for the legal issues associated with the  
11 registration and transfer of shares. They ensure that those  
12 shares are transferred legally, so we confirm with them.  
13 They're a third party, so we can verify the shares have  
14 actually been issued. If the company has collected the cash  
15 and the shares have not been issued, then they have a stock  
16 payable, that there's an obligation to issue those shares as  
17 of the balance sheet date.

18 Q So similar to what you described earlier, and  
19 correct me if I'm wrong, that having a third party ensures  
20 you that there is some level of independence.

21 A Correct, yes.

22 Q Okay. And checking the receipt of cash, that means  
23 to confirm that Charles Irizarry actually paid the cash for  
24 the shares?

25 A Yes, that the company received the cash.

1 BY MR. ADDISON:

2 Q If you go to 11287 on Exhibit 3, under Number 3, it  
3 notes "Legal and accounting fees", do you know if any Metro  
4 West charges were in there?

5 A No Metro West charges were in there, and we had a  
6 number of conversations with John Briner. He said that they  
7 don't know exactly how much La Paz owes him at that  
8 particular point in time. I believe there were a few e-mails  
9 around it. He said that the final amount would not be  
10 determined until the S1 was declared effective, and we  
11 documented that discussion.

12 Q Did you find that unusual?

13 A Not necessarily for small companies. No.

14 Q Did you wonder if Metro West considered the amount  
15 of cash that was on hand and whether the bill could actually  
16 be paid?

17 A No.

18 Q I have one other question.

19 A That's fine.

20 Q Go back to Exhibit 2.

21 A Okay.

22 Q Turn to the last page. We note on this exhibit  
23 that there's a space here for Concurring Partner to sign off.  
24 Do you know if a concurring partner actually reviewed this  
25 document?

1 Q Do you think that Briner had a similar issue?  
 2 A I believe so, yes.  
 3 Q So is it a question you asked yourself, is this a  
 4 relationship that was other than a third party relationship  
 5 of a service organization doing accounting?  
 6 A No, I didn't.  
 7 Q Sitting here now, - if you didn't get that  
 8 information up front, would you have wondered about the  
 9 relationship between Metro West and -  
 10 A Yes.  
 11 Q And why?  
 12 A The nature of these transactions and the reasons,  
 13 the business reasons related to some of these things that are  
 14 non-standard.  
 15 Q Did you -  
 16 BY MR. SUNSHINE:  
 17 Q I'm sorry. Can you go through - what's non-  
 18 standard? I don't think we've really gotten to that point.  
 19 A Exactly what we've been talking about here. We  
 20 know that Metro West provided services, and we thought that  
 21 there should be fees and expenses and a liability recorded  
 22 from Metro West, and he's saying it's not a liability. We  
 23 got correspondence from John indicating that at the present  
 24 time he's not sure exactly how much that is.  
 25 Q What about John Briner signing the invoices for the

1 MR. SUNSHINE: I didn't mean to cut you off your  
 2 line of questioning.  
 3 MR. ADDISON: That's okay.  
 4 Q I just want to understand what it is you're  
 5 thinking. What did you think when you saw this series of  
 6 transactions that caused you to want the substantive evidence  
 7 that you asked for? Besides what you just said which is that  
 8 it's a small company and owned by one individual.  
 9 A I would say those are the primary reasons. It's a  
 10 small company owned by one individual. There's no level of  
 11 oversight, so we wanted to do primarily a substantive audit.  
 12 Q And why did you trust Metro West Law to provide you  
 13 with the information you needed?  
 14 A I don't know that I'd say that I trusted. I tried  
 15 to get evidence from Metro West Law that would give me  
 16 comfort that these transactions were legitimate.  
 17 Q But we discussed discrepancies that you - one  
 18 being the difference between the \$30,000 charge and the other  
 19 being the \$39,280 reflection on the statement. Why did you  
 20 trust the explanation you got for the reconciliation from  
 21 John Briner, so what I don't understand is why didn't you  
 22 trust that explanation without anything further?  
 23 A I felt like we had documentation, and he provided  
 24 us with an explanation for the difference. He didn't have an  
 25 interest that I was aware of in the company. He didn't have

1 share purchase agreement? Would you also consider that to  
 2 not be a normal type of transaction?  
 3 A I wouldn't know unless I asked him more about that.  
 4 The expense stuff is pretty clear to me. As far as the  
 5 relationship between the attorneys and the signatures on the  
 6 contracts, I don't know. I can't make a determination.  
 7 Q Just from an overall business perspective, I know  
 8 that at some point your staff provided you with some  
 9 information about John being suspended from practicing before  
 10 the Commission. Did you ever question the business motives  
 11 for any of the transactions that we talked about today?  
 12 A Well, yes, and that's why we wanted substantive  
 13 evidence of everything. We needed to have -  
 14 Q I know you wanted evidence, but what was the  
 15 question that you -  
 16 A The validity of the transaction.  
 17 Q Why did you question the validity of the  
 18 transaction?  
 19 A Because they're a small company. They're held by a  
 20 couple of individuals. I wanted to have evidence that these  
 21 transactions didn't set a curve and that they were valid.  
 22 Q Why would it be just because it was a small entity  
 23 and there is one individual that - why would that lead you  
 24 to want more evidence than another company?  
 25 A So, I - can you repeat the question?

1 stock ownership in the company, so I viewed hi as being a  
 2 third party.  
 3 Q If you take his explanation out of the equation and  
 4 look at only the documentation which is the bank statement,  
 5 the trust statement, the check, that there are discrepancies  
 6 between the documents on that page do not reconcile  
 7 themselves. Do you agree to that?  
 8 A No, I don't. There's issues with the dates and the  
 9 way that they recorded them, but -  
 10 Q - 30,000 -  
 11 A -  
 12 Q Let me finish. Does this \$39,280 reconcile with  
 13 \$30,000?  
 14 A No. We had an explanation from John Briner who is  
 15 a third party explain the difference to us.  
 16 Q And why do you trust him?  
 17 A Because he's a third party.  
 18 Q (Inaudible.)  
 19 A Yes.  
 20 MR. SUNSHINE: Please mark this as Exhibit 29.  
 21 (Exhibit Number 29 was so  
 22 marked for identification.)  
 23 Q I'm showing you what has been marked as Exhibit 29.  
 24 It's an e-mail from Swanandi to Philip Zhang, cc yourself.  
 25 Do you recognize this e-mail?

1 A Uh-huh.  
 2 Q What is it?  
 3 A It's an e-mail from Swanandi to Philip, and I  
 4 believe that the links are to the articles where he was  
 5 prohibited from practicing before the SEC.  
 6 Q And was this what you were referring to earlier  
 7 when you said there was -  
 8 A I believe so.  
 9 Q - information brought to your attention. I'll  
 10 note the date is November 5, 2012. We established and you  
 11 testified that De Joya resigned in the summer of 2013.  
 12 A I believe that's right. I'd have to go back and  
 13 look at the resignation letter.  
 14 Q Assuming that's the case, what happened - let me  
 15 take a step back. What was your response to this e-mail?  
 16 A My response to the e-mail asked Arthur and Philip  
 17 if they were going to look into this and assess this and the  
 18 implications for us and make decisions.  
 19 Q Okay, so when it says I will call you tonight, did  
 20 you have any conversation with Swanandi about this e-mail?  
 21 A No.  
 22 Q You called Philip and who else did you call?  
 23 A I spoke with Philip and Arthur.  
 24 Q After receiving his e-mail.  
 25 A After receiving the e-mail.

1 Q Did you discuss this e-mail with anybody else other  
 2 than those two?  
 3 A No.  
 4 Q What else was discussed on the call?  
 5 A I was not on the call.  
 6 Q I mean the call - I'm sorry, I meant the call that  
 7 you had with Philip.  
 8 A The discussion with Philip was what are you guys  
 9 going to do about this. Since Philip had the majority of the  
 10 clients related to John Briner, he was going to talk with  
 11 Swanandi and determine a course of action for the firm.  
 12 Q And you had a similar conversation with Arthur De  
 13 Joya?  
 14 A Yes.  
 15 Q Did they provide you with any additional insight  
 16 into John Briner or these documents that are -  
 17 A No.  
 18 Q So in your mind, it was being handled by those two.  
 19 A Yes.  
 20 MR. SUNSHINE: Please mark this as Exhibit 30.  
 21 (Exhibit Number 30 was so  
 22 marked for identification.)  
 23 Q I'm showing you what has been marked as Exhibit 30,  
 24 an e-mail from Swanandi to Philip Zhang, cc'ing yourself. Do  
 25 you recognize this e-mail?

1 Q And what was discussed?  
 2 A The discussion was that they were going to look  
 3 into this and discuss it with Swanandi and determine the net  
 4 steps for our firm.  
 5 Q Was it a call between all three, you Arthur and  
 6 Philip, or you had two individual calls?  
 7 A This is a long time ago, but I think it was Philip  
 8 and I spoke about it first, and then I asked Arthur about it,  
 9 and he indicated that he and Philip would look into it and  
 10 make a resolution.  
 11 Q So your testimony is that you had a discussion with  
 12 these two other audit partners in your firm, and it was  
 13 decided that those two audit partners would address the e-  
 14 mail, the situation.  
 15 A Yes.  
 16 MR. ADDISON: Who is Arthur?  
 17 THE WITNESS: He's one of the partners, one of the  
 18 founding partner.  
 19 MR. ADDISON: What's the last name?  
 20 THE WITNESS: De Joya.  
 21 Q Is he the concurring partner on La Paz?  
 22 A I'd have to double check the file, but I think  
 23 Jason concurred on the file.  
 24 Q Jason Griffith?  
 25 A Jason Griffith.

1 A Yes.  
 2 Q Is this one of the e-mails you were referring to,  
 3 the information you were referring to earlier that brought to  
 4 your attention this is what John Briner -  
 5 A I believe so, yes. I don't know what this one is.  
 6 I think I recognize the SEC link.  
 7 Q Well, did you see this e-mail, Exhibit 30?  
 8 A Yes.  
 9 Q Did you click on the link and read the article?  
 10 A I don't recall if I did or not.  
 11 Q Did you have any response to this e-mail?  
 12 A Not that I remember, because we had already  
 13 discussed this.  
 14 Q Was this e-mail more of the same as far as you were  
 15 concerned as the other e-mail?  
 16 A Yes, because I think the SEC's litigation were  
 17 talked about.  
 18 Q I guess did you feel you had any professional  
 19 obligation to respond to let's say Exhibit 29 which is the  
 20 one you said you -  
 21 A Our firm did.  
 22 Q Okay, but as an individual auditor, did you feel  
 23 you feel you had an individual professional responsibility to  
 24 respond yourself?  
 25 A No. I felt like it was being handled by two other

1 partners of the firm and they were going to do what was  
2 appropriate under the circumstances.

3 MS. MEHRABAN: And that was respect to all of the  
4 companies?

5 THE WITNESS: Yes.

6 MS. MEHRABAN: Including La Paz Mining.

7 THE WITNESS: Yes.

8 Q So this e-mail, Exhibit 30 and Exhibit 29, are in  
9 November. I think we sort of talked about this, but it's  
10 June of 2013, that's 8 months from this e-mail to the  
11 resignation. Did you have any conversations in the interim  
12 about what Arthur and Philip were doing with respect to that  
13 information?

14 A I don't recall having a discussion with them.

15 Q When you saw that the firm had resigned from the  
16 audit and all clients relating to John Briner, did you  
17 question the timing at all, why that happened so far after  
18 you received this information?

19 A No.

20 Q So you just assumed the whole time it was being  
21 handled by the other two partners in your firm.

22 A Yes.

23 Q And did you ever follow up with the Arthur or  
24 Philip during that time period to see what they had done to  
25 address this information?

1 (Whereupon a recess was taken.)

2 MR. SUNSHINE: Back on the record at 3:38 p.m.,  
3 November 4, 2013, and did we have any substantive discussions  
4 about the testimony during the break?

5 THE WITNESS: No.

6 MR. SUNSHINE: Please mark this as Exhibit 32.

7 (Exhibit Number 32 was so  
8 marked for identification.)

9 BY MR. SUNSHINE:

10 Q I'm showing you what has been marked as Exhibit 32.  
11 It looks to be a work paper. Can you describe what that is?

12 A It's a quality review form.

13 Q And what is that?

14 A The quality review form?

15 Q And what is a quality review form?

16 A It's QRP (SIC) function where they review the  
17 financial statements, and that's about it.

18 Q The they is who?

19 A The partners.

20 Q So this is for La Paz Mining. Correct?

21 A Correct.

22 Q And who is the partner that did the QRP for La Paz  
23 Mining?

24 A Arthur De Joya.

25 Q And that's his signature?

1 A Not that I recall.

2 MR. SUNSHINE: Please mark this as Exhibit 31.  
3 (Exhibit Number 31 was so  
4 marked for identification.)

5 Q I'm showing you what has been marked as Exhibit 31.  
6 It's an e-mail from Swanandi Redkar, November 7, 2012 to  
7 Philip Zhang, cc'ing Chris Whetman. Do you recognize this e-  
8 mail?

9 A I remember this e-mail, yes.

10 Q What was your response to this e-mail?

11 A I don't recall if I responded or not. I don't  
12 think that I did. It was just more information about the  
13 original one.

14 Q Did you read the article attached to this e-mail?

15 A I don't think so.

16 Q So in your mind, this is part of the same issue,  
17 and Arthur and Philip were handling it.

18 A Yes.

19 MR. SUNSHINE: If you guys don't have any  
20 questions, I'm going to go to the next exhibit.

21 MS. MEHRABAN: Let's take a couple minute break.

22 MR. SUNSHINE: Yes. Let's take a 10-minute break.

23 MS. MEHRABAN: Off the record at -

24 MR. SUNSHINE: Off the record at 3:15, November 4,  
25 2013.

1 A Yes.

2 MR. SUNSHINE: Okay, and I don't know if you had  
3 any questions about that other than who is the partner?

4 MR. ADDISON: No, I don't think so.

5 Q Moving on, what does a concurring partner do in De  
6 Joya Griffith? How does that work?

7 A He looks at the financial statement to make sure  
8 that they're correct in that, basically he's looking at them  
9 to make sure that they appear to be correct.

10 Q So would Exhibit 32 be the list of things that a  
11 concurring partner would review or a quality review or is it  
12 the same thing?

13 A Concurring review and quality review is the same  
14 thing. Quality Review Partner Approval Form is what this  
15 technically is, and the box above the signature indicates  
16 that things that were attached.

17 Q I'm sorry. What -

18 A It says documentation provided to the quality  
19 reviewer. It's the audit report, engagement completion  
20 document trying to adjust the differences. There weren't any  
21 in this case, final analytics, critical matters documentation  
22 form, adjusting journal entries, final trial balance and a  
23 copy of the S1.

24 Q So would a concurring partner look at any of this  
25 for the underlying transactions?

# **EXHIBIT**

**6**

Page 1

1 THE UNITED STATES SECURITIES AND EXCHANGE COMMISSION  
2  
3 In the Matter of: )  
4 ) File No. NY-08922-A  
5 LA PAZ MINING CORP. )  
6  
7 WITNESS: Jason Griffith  
8 PAGES: 1 through 96  
9 PLACE: Securities and Exchange Commission  
10 Los Angeles Regional Office  
11 5670 Wilshire Boulevard  
12 11th Floor  
13 Los Angeles, California 90036  
14 DATE: Thursday, December 5, 2013  
15  
16 In the above-matter came on for hearing, pursuant to  
17 notice, at 9:05 a.m. (PST); 12:05 p.m. (EST)  
18  
19  
20  
21  
22  
23  
24 Diversified Reporting Services, Inc.  
25 (202) 467-9200

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1 APPEARANCES:  
2  
3 On behalf of the Securities and Exchange Commission  
4 (Via video teleconference):  
5 JASON SUNSHINE, ESQ.  
6 LARA SHALOV MEHRABAN, ESQ.  
7 JAMES ADDISON, CPA  
8 Securities and Exchange Commission  
9 200 Vesey Street, Suite 400  
10 New York, NY 10281  
11 (212) 336-9090  
12  
13 On behalf of the Witness:  
14 JASON GRIFFITH, PRO SE  
15  
16  
17  
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P R O C E E D I N G S

1  
2 MR. SUNSHINE: All right, we are on the record  
3 at 12:05 p.m. Eastern Standard Time.  
4 Mr. Griffith, can you raise your right hand?  
5 I'm sorry. I saw you taking notes, before we  
6 do, if you could not write on the exhibits, that would be  
7 appreciated.  
8 MR. GRIFFITH: I'm not, I have a notepad.  
9 MR. SUNSHINE: That's your own?  
10 MR. GRIFFITH: Yes.  
11 MR. SUNSHINE: Okay. Please raise your right  
12 hand.  
13 MR. GRIFFITH: (As requested.)  
14 MR. SUNSHINE: Do you swear or affirm to tell  
15 the truth, the whole truth and nothing but the truth?  
16 MR. GRIFFITH: So help me God.  
17 MR. SUNSHINE: Yes or no?  
18 MR. GRIFFITH: Yes, I'm sorry.  
19 Whereupon,  
20 JASON GRIFFITH  
21 was called as a witness and, having been first duly  
22 sworn, was examined and testified as follows:  
23 EXAMINATION  
24 BY MR. SUNSHINE:  
25 Q Okay. I'm sorry, we are going to need to do

1 that. Can you please state and spell your full name for  
2 the record.

3 A Jason Franklin Griffith, J-A-S-O-N, middle  
4 name, F-R-A-N-K-L-I-N, last name, Griffith,  
5 G-R-I-F-F-I-T-H.

6 Q I'm Jason Sunshine, to my left is Lara  
7 Mehraban, Lara Shalov Mehraban, to my left is Jim  
8 Addison. We are officers of the Commission for the  
9 purposes of this proceeding.

10 This is an investigation by the SEC in the  
11 matter of La Paz Mining Corp., No. NY-8922 to determine  
12 whether there have been violations of certain provisions  
13 of the Federal securities law. However, the facts  
14 developed in this investigation might constitute  
15 violations of other federal or state, civic or criminal  
16 laws.

17 Prior to the opening of the record, you were  
18 provided with a copy of the Formal Order of Investigation  
19 in this matter. It will be available for your  
20 examination during the course of this proceeding.

21 Have you had the opportunity to review the  
22 Formal Order?

23 A Yes, I have.

24 Q Prior to the opening of the record, you were  
25 provided a copy the Commission's Supplemental Form 1662.

1 in Exhibit J provide criminal penalties for knowingly  
2 providing false testimony or knowingly using false  
3 documents in connection with this investigation?

4 A Yes.

5 Q Do you understand that you may assert your  
6 rights under the Fifth Amendment to the Constitution and  
7 refuse to answer any question which may tend to  
8 incriminate you?

9 A Yes.

10 MR. SUNSHINE: I'm turning now to Tab 2, which  
11 I will ask the court reporter to mark as Exhibit K.

12 (SEC Exhibit K was marked for  
13 identification.)

14 BY MR. SUNSHINE:

15 Q This is a copy of the subpoena to which you are  
16 appearing today. Please take a look at it and is this  
17 the subpoena to which you are reviewing – or pursuant to  
18 which you are appearing today?

19 A Correct.

20 Q I'm going to ask you to please turn to Tab 3.

21 MR. SUNSHINE: And if this tab, this Tab 3 can  
22 be marked as Exhibit L.

23 (SEC Exhibit L was marked for  
24 identification.)

25 BY MR. SUNSHINE:

1 I'm asking the court reporter if that exhibit can be  
2 marked as Exhibit J and it is under Tab 1 in your binder.

3 (SEC Exhibit J was marked for  
4 identification.)

5 BY MR. SUNSHINE:

6 Q Have you had an opportunity to review Exhibit  
7 J?

8 A Yes, I have.

9 Q Do you have any questions about this exhibit?

10 A No, I do not.

11 Q Are you represented by counsel?

12 A No, I'm not.

13 Q Okay. You have the right to be accompanied,  
14 represented and advised by counsel. This means that you  
15 may have an attorney present and that your attorney can  
16 advise you before, during and after your examination here  
17 today. Do you understand this?

18 A Yes.

19 Q Since you are not represented by counsel, there  
20 are certain matters discussed in Exhibit J that I want to  
21 highlight for you.

22 Do you understand that upon your request, these  
23 proceedings will be adjourned so you may obtain counsel?

24 A Yes.

25 Q Do you understand that the statutes set forth

1 Q Exhibit L is a copy of the subpoena that was  
2 directed to your firm, De Joya Griffith to which you are  
3 a partner. Were you aware of that subpoena?

4 A Aware of it, yes.

5 Q Now, I would like to go over some ground rules  
6 for today's testimony. First, it's very important that  
7 you answer all the questions verbally and not with a nod  
8 of the head or an uh-huh. This is necessary so the court  
9 reporter can provide a clear record. Do you agree to do  
10 that?

11 A Yes.

12 Q It's also important for making a clear record,  
13 especially because this is by Video Link, that you and I  
14 don't interrupt each, so please wait until I finish  
15 asking a question before you answer. Do you agree to do  
16 that?

17 A Yes.

18 Q Now, do you understand that you are testifying  
19 under oath today?

20 A Yes.

21 Q Is there any reason why you would not be able  
22 to answer my questions truthfully and accurately today?

23 A No.

24 Q Are you taking any medication or do you have  
25 any medical conditions that prevent you from

1 understanding questions and answering truthfully?  
 2 A No.  
 3 Q And if I ask you a question and you don't  
 4 understand it, will you let me know?  
 5 A Yes.  
 6 Q Also, the Commission's staff meaning myself,  
 7 Ms. Mehraban and Mr. Addison controls the record here  
 8 today. So that means that the court reporter will only  
 9 go off the record at my or my colleague's instruction.  
 10 With that said, if you need to take a break at any time,  
 11 please let me know and we can take a break. But if there  
 12 is a question pending, I would ask that you first answer  
 13 the question before we break. Do you agree to do that?  
 14 A Yes.  
 15 Q Have you discussed the fact that you will be  
 16 testifying here today with anyone?  
 17 A They are aware of it, yes.  
 18 Q And what discussions have you had?  
 19 A Just with my partners as far as -- and my  
 20 administrative staff and my fiancee in terms of making  
 21 flight arrangements, why I would be out of the office,  
 22 and that's it, just because of the fact because I was the  
 23 concurring reviewer.  
 24 Q Okay. I'm going to ask that you do not take  
 25 notes so that you can be sure that you are hearing the

1 not produced for any reason other than privilege?  
 2 A Not that I'm aware of.  
 3 Q Do you know of any responsive documents to the  
 4 subpoena that were lost, destroyed or otherwise disposed  
 5 of and were therefor not produced to us?  
 6 A No, not that I'm aware of.  
 7 Q All right. Turning to, starting with your  
 8 background, can you tell us what is the highest level of  
 9 education you've completed?  
 10 A I have a Master's degree in accounting.  
 11 Q And where did you get that?  
 12 A I got that from Rhodes College, R-H-O-D-E-S, in  
 13 Memphis, Tennessee.  
 14 Q And when did you get it?  
 15 A 2000.  
 16 Q And where did you go to undergrad?  
 17 A Rhodes College as well, graduated in 1998,  
 18 double major business and economics.  
 19 Q And what professional licenses do you have?  
 20 A Certified Public Accountant, Certified  
 21 Management Accountant, and that's it.  
 22 Q And in what state did you get your C.P.A.?  
 23 A In Tennessee.  
 24 Q Any other states?  
 25 A Since then I have in Nevada as well as, I

1 question and answering because it's maybe somewhat  
 2 distracting. Is that okay?  
 3 A Okay.  
 4 Q Thank you. So you personally, and the firm, De  
 5 Joya Griffith that you are a partner of, received the  
 6 subpoenas that have been marked as Exhibits K and L and  
 7 these exhibits call for the production of certain  
 8 documents. Have you provided to staff all the documents  
 9 called for by the subpoenas?  
 10 A To clarify, when you say staff, you mean SEC  
 11 staff?  
 12 Q Yes, SEC staff.  
 13 A Yes, correct.  
 14 Q Please describe the search that was conducted  
 15 for the subpoenaed documents and tell us who conducted  
 16 the search.  
 17 A Our administrative staff and engagement  
 18 partners put together everything, from emails, work  
 19 papers, spreadsheets, client documents that have been  
 20 received, confirms, basically every document that in any  
 21 way, shape or form referenced any of the clients.  
 22 Q And have you withheld any documents called for  
 23 by the subpoena based on any claim or privilege?  
 24 A No.  
 25 Q Were any documents called for by the subpoena

1 believe, Georgia and we are working on Texas. I don't  
 2 believe that it's finished yet.  
 3 Q And can you tell me what year did you get your  
 4 C.P.A. in Tennessee?  
 5 A I believe 2001.  
 6 Q And the one in Georgia?  
 7 A I would be completely guessing, so I'll go with  
 8 2006.  
 9 Q Okay. And Nevada?  
 10 A Probably would have been 2002.  
 11 Q After graduating from your Master's, can you  
 12 tell me about your work history.  
 13 A When I graduated from my undergrad, I started  
 14 to work at Arthur Anderson while I was completing my  
 15 Master's program and I worked there from December, 1998  
 16 until I believe, July, 2001.  
 17 Q And what did you do there?  
 18 A I was a tax senior.  
 19 Q I'm sorry, what was that?  
 20 A A senior in the tax department.  
 21 Q Tax. And briefly describe your  
 22 responsibilities as a tax senior.  
 23 A Preparation of tax returns, review of tax  
 24 returns, work on client proposals, due diligence for  
 25 feasibility studies, general research, tax research.

1 Q Anything else?  
 2 A I mean, there was limited audit experience at  
 3 the time there, but --  
 4 Q And what did you do after 2001?  
 5 A In August of 2001, I started working for a firm  
 6 in Las Vegas, Nevada called Chavez & Koch, C-H-A-V-E-Z  
 7 and Koch, K-O-C-H. I was an accounting and audit manager  
 8 from 2001 until 2002. During that time --  
 9 Q After that --  
 10 A I'm sorry.  
 11 Q I'm sorry.  
 12 A During that time I did everything from  
 13 compilation reviews, personal financial statements,  
 14 audits, as well as tax returns. In 2002, I was hired on  
 15 by a client to be the Chief Financial Officer, so I left  
 16 Chavaz & Koch, concurrently with doing the CFO work, I  
 17 started my own CPA firm.  
 18 Q Okay. And who was the client you just  
 19 mentioned?  
 20 A The client at the time was called Nutek,  
 21 N-U-T-E-K.  
 22 Q And what did you do for them?  
 23 A I was the Chief Financial Officer.  
 24 Q And you mentioned that you then started your  
 25 own firm?

1 A I was the only accounting partner at the time.  
 2 My wife at the time was, I believe, a ten percent owner.  
 3 Q Who was the Franklin in the Franklin Griffith?  
 4 A That's my middle name.  
 5 Q Oh, okay. What years was that from, when?  
 6 A I believe it was 2004 until De Joya Griffith  
 7 was started in August of 2005.  
 8 Q And how did you come to form De Joya Griffith?  
 9 A In the early part of 2005 Arthur De Joya and I  
 10 went to lunch and discussed the potential of starting a  
 11 firm. After Sarbanes-Oxley the number of firms in the  
 12 state of Nevada that dealt with the publicly stated  
 13 companies started to diminish and he and I would run into  
 14 each other, whether I was doing the consulting work, and  
 15 he was the auditor and vice versa, and we discussed his  
 16 strengths and/or weaknesses versus mine in what was a --  
 17 could be a potential of a way to get a firm going.  
 18 Q So maybe you could describe to me how you first  
 19 met Arthur De Joya.  
 20 A The first time I ever physically met him was at  
 21 a client location where I was doing, I believe I was  
 22 doing the audit work and he was doing the consulting  
 23 work. I believe that was --  
 24 Q When was that?  
 25 A That would have been sometime in 2004.

1 A Correct.  
 2 Q Can you describe that?  
 3 A Correct. I started the own firm, it was called  
 4 at the time CFO Advantage, Incorporated.  
 5 Q And what did that firm do?  
 6 A That firm did tax returns, accounting work,  
 7 consulting as well as audit work for publicly traded  
 8 companies.  
 9 Q And that was in 2002 you started that company?  
 10 A That was in 2002, and that continued until, I  
 11 believe, 2005 -- I'm sorry, 2004 when I started my own  
 12 CPA firm. CFO Advantage had two other partners at the  
 13 time, and when I started my own firm, it was basically  
 14 just me.  
 15 Q Who were the other two partners?  
 16 A One's name was David Marino and the other  
 17 person's name was Melissa Bleu.  
 18 Q Okay. And then what happened after CFO  
 19 Advantage?  
 20 A I started Franklin Griffith & Associates, and  
 21 that CPA firm did materially the same transactions that  
 22 CFO Advantage did, from accounting work, consulting, tax  
 23 returns, and audits of publicly traded companies.  
 24 Q And who were the other partners in Franklin  
 25 Griffith & Associates?

1 MS. MEHRABAN: Were you still the CFO of Nutek  
 2 at that time?  
 3 THE WITNESS: Yes. Nutek had changed its name  
 4 to Datascenion, D-A-T-A-S-C-E-N-I-O-N, and had spun off  
 5 in a oil and gas subsidiary called, at the time it was  
 6 called Nutek Oil. And then that changed its name to  
 7 South Texas Oil. And I, sometime in the 2005, I believe,  
 8 the early part of 2005 is when I resigned my CFO  
 9 position.  
 10 MS. MEHRABAN: Why did you resign?  
 11 THE WITNESS: The company was moving to Texas  
 12 and it was either move to Texas with them or just resign  
 13 because the company was getting bigger and they needed  
 14 more -- they needed more of a full-time person.  
 15 BY MR. SUNSHINE:  
 16 Q How many employees were Southwest Texas, the  
 17 entity you just described you were the CFO of?  
 18 A South Texas Oil had four maybe, most was  
 19 contract labor.  
 20 Q Who was the CEO?  
 21 A Murray Conradie, C-O-N-R-A-D-I-E.  
 22 Q So you mentioned in August of '05 you  
 23 established De Joya Griffith; is that correct?  
 24 A Correct. I believe it was actually set up  
 25 earlier in the year, incorporated, but we didn't actually

1 start anything until the first part of August.

2 Q And who were the partners when you started it?

3 A Arthur De Joya and myself.

4 Q And did there come a time where you added any

5 additional partners?

6 A Yes, I believe it was end of 2006, beginning

7 2007 when Marlene Hutcheson came on as a partner.

8 Q Anybody else?

9 A I believe two years later, maybe three years

10 later, Philip Zhang came on as a partner. And then Chris

11 Whetman, W-H-E-T-M-A-N, came on as a partner maybe 12

12 months after that.

13 Q And how did Philip Zhang come to be a partner?

14 A During maybe '07, '08, we were talking with a

15 firm that he was partners of potentially merging for

16 multiple reasons. The merger didn't go through, but

17 Philip came to the firm with his audit practice as a

18 partner.

19 Q And what was the firm, what was the firm that

20 you remember discussing the merger with?

21 A It was called Reeves, Evans, McBride, Zhang.

22 Q And how did you get to meet Mr. Zhang?

23 A I originally met him as, when I had CFO

24 Advantage, one of our audit clients resigned and then his

25 firm took over, and then just was introduced through them

1 Joya.

2 A Because I'm licensed in Tennessee, I take

3 different ethics requirements that are Tennessee specific

4 every two years, and then through De Joya Griffith for

5 the state of Nevada and Georgia, I take, I believe,

6 general ethics. We have classes throughout the year

7 internally that I will attend and usually maybe ten to

8 twenty hours I'll do self-study.

9 I believe last year I did 20 hours on

10 understanding, you know, corporate fraud. And then I've

11 taken ten hours of tax here or there. I'm not sure if

12 that answers your question.

13 Q No, it does. You mentioned a course in

14 understanding corporate fraud. Can you tell me what that

15 was about?

16 A It was, I mean, this was probably two summers

17 ago, it was just a course on white collar crime. I

18 think, I'm a member of the Association of Certified Fraud

19 Examiners although I'm not a CFE, I haven't taken the

20 exam yet, but I get the newsletters or the monthly

21 magazine -- quarterly magazine, I should say. And I

22 remember reading something about a CPE that was offered,

23 it was 20 hours, and it coincided with a couple of days

24 earlier, one of my administrative staff mentioning I

25 needed 15 hours, so it seemed interesting to me.

1 on a different mutual arrangement where they needed some

2 work done on an audit client and we helped out and vice

3 versa.

4 Q And how do you characterize your relationship

5 with Mr. Zhang? Is it, by way of example, I mean, is it

6 purely professional or do you also have a social

7 relationship?

8 A I would say it's professional.

9 Q What about, when did you come to meet Mr.

10 Whetman?

11 A I met Mr. Whetman two, three years ago. He was

12 introduced to me through Arthur De Joya, who I believe

13 they previously worked together.

14 Q And same question for Mr. Whetman, how would

15 you characterize your relationship with him?

16 A Mostly professional.

17 Q Do you ever do non-professional events with

18 either Mr. Zhang or Mr. Whetman, such as, I don't know,

19 play golf, for example?

20 A No, I've never played golf with him. I mean,

21 the only semblance of a potential social would be, you

22 know, our kids may have been to the same birthday party,

23 but other than, it's, for all intents and purposes,

24 professional.

25 Q Tell me about your professional education at De

1 Q Do you remember what specific types of

2 corporate fraud were discussed?

3 A No, I don't. I mean, I remember it was more

4 specific to doing the actual investigation itself of

5 tracing the money, recreating the financials.

6 Q What about continuing professional education

7 relating to GAAP, Generally Accepted Auditing Standards,

8 have you taken anything in that?

9 A Just the ones that we do at the firm. Either

10 I'll sit in on them or do them self-study from my desk.

11 I couldn't tell you any titles off the top of my head.

12 Q Turning -- well, does De Joya Griffith as a

13 firm have any professional education requirements for its

14 partners as a firm policy?

15 A I don't know if it's written or not, but it's

16 obviously for the purposes of your minimum requirements

17 for your relative state boards.

18 Q Anything separate from the state board

19 requirements?

20 A Nothing written.

21 Q Anything unwritten?

22 A The unwritten is that we are always passing out

23 books or attending seminars, going to events to learn.

24 Q So no requirements, but some informal --

25 A Informal training, whether it's -- we are

1 it's been a year since I've looked at this.  
 2 Q And did you do anything to prepare for today's  
 3 testimony?  
 4 A Not particularly. I mean, I didn't look  
 5 through the files or anything like that.  
 6 Q I'm sorry. You did not look through the files;  
 7 is that what you said?  
 8 A Correct.  
 9 Q And when you received the subpoenas that we  
 10 discussed earlier, did you look at the files at that  
 11 time?  
 12 A Not in detail, no.  
 13 Q Did you look at them at all in any way?  
 14 A I pulled up a couple of their filings on the  
 15 SEC website just to peruse and see, just peruse and see  
 16 the financials in the filing.  
 17 Q And the first subpoena you received was in June  
 18 and then we sent obviously a recent one in November.  
 19 Which subpoena are you referring to?  
 20 A November.  
 21 Q So the subpoena that I sent you in November is  
 22 dated November 15th, so sometime after November 15th you  
 23 checked the SEC filings for the issuers we had identified  
 24 in the subpoena; is that correct?  
 25 A Subsequent to receiving the subpoena, I pulled

1 up the SEC website and looked at one or two of the  
 2 filings.  
 3 Q Do you know which ones?  
 4 A I know La Paz was one of them and I don't  
 5 definitively know which one the other one was, maybe – I  
 6 would be guessing.  
 7 Q If you had to guess, what would it be?  
 8 A Maybe Jewel Exploration or – I'm sorry, yes.  
 9 Q Okay. Moving to another topic. Do you know  
 10 who John Briner is?  
 11 A Never met him personally, correct, but yes, I  
 12 do.  
 13 Q And who is he?  
 14 A He is an attorney. He's an SEC attorney, not  
 15 for the SEC, but he's an attorney that practices with SEC  
 16 clients.  
 17 Q And how do you know him?  
 18 A Just because Philip and Chris had mentioned his  
 19 name before.  
 20 Q Phil or –  
 21 A Philip Zhang or Chris Whetman, I mentioned his  
 22 name before.  
 23 Q And do you know when that was?  
 24 A When we, the name earlier –  
 25 Q When they first mentioned his name.

1 A It would have been when we picked up some of  
 2 his clients, so it would have been a year and a half ago  
 3 maybe.  
 4 Q And what clients were those?  
 5 A Off the top of my head, I wouldn't remember the  
 6 names.  
 7 Q So the first you learned of John Briner's name  
 8 was from either Philip Zhang or Chris Whetman, is that  
 9 accurate?  
 10 A I believe so, yes.  
 11 Q And that was sometime about a year and a half  
 12 ago?  
 13 A Whenever we would have signed up with these  
 14 engagements, correct.  
 15 Q So prior to that time, you had never heard of  
 16 John Briner?  
 17 A Not to my recollection.  
 18 Q And have you ever met him in person?  
 19 A No, not to my recollection. I mean, maybe ten  
 20 years ago.  
 21 Q Have you ever spoken to him on the phone?  
 22 A No, I do not believe so.  
 23 Q So – and he, John Briner referred clients to  
 24 De Joya Griffith; is that correct?  
 25 A That's what I was told, correct.

1 Q Who told you that?  
 2 A I believe it was Philip Zhang.  
 3 Q So Philip Zhang said to you, "John Briner  
 4 referred some clients to our firm?"  
 5 A Paraphrasing, more or less, yes. There was a,  
 6 I recall a conversation with Mr. Zhang, and he mentioned  
 7 that he had an attorney referral that, I don't remember  
 8 if he said he knew him or didn't know him, for an  
 9 extended period of time, and he had some clients that  
 10 needed some audit work done, and that was when I first  
 11 heard of it. And that would have been whenever we were,  
 12 I believe, originally engaged for these. I mean, in  
 13 theory, I could have known his name years back, but the  
 14 name doesn't ring a bell other than until these came to  
 15 light.  
 16 Q What do you mean these came to light?  
 17 A Meaning the engagements, we got the  
 18 engagements.  
 19 Q Got it. Do you know what John Briner's  
 20 relationship was to the clients he referred to De Joya  
 21 Griffith?  
 22 A My guess, and based on the information that I  
 23 had was that he was their SEC attorney of record, or SEC  
 24 attorney, and subsequently later he was handling a trust  
 25 account for some of the clients.

1 Q And what do you mean when you say he was an SEC  
 2 attorney?  
 3 A He was an attorney whose practice was more, the  
 4 majority of which was dealing with publicly traded  
 5 clients.  
 6 Q Would you consider John Briner to have been a  
 7 consultant with the issuers that he referred to De Joya  
 8 Griffith?  
 9 A It wasn't represented to me that way. I mean,  
 10 from that definition, no. My definition of consultant  
 11 would be more of the preparing of the financial  
 12 statements in that regard. So I didn't view, at least  
 13 from how it was represented to me, his involvement that  
 14 way.  
 15 Q So in your experience SEC attorneys prepare  
 16 accounting statements?  
 17 A No.  
 18 Q Excuse me, financial statements?  
 19 A No. I mean, I've seen it before, but not  
 20 usually.  
 21 Q Well, you understood that John Briner was  
 22 preparing financial statements for the issuers he  
 23 referred to De Joya Griffith, correct?  
 24 A I understood that John Briner was the attorney  
 25 for these block of clients. The specifics of who was

1 investor put the money in, and he managed the funds and,  
 2 for lack of a better term, he was the company's bank  
 3 account. If they said, we need to pay a transfer agent  
 4 bill, he would pay the bill and make a notation.  
 5 Q So was it your understanding that in this trust  
 6 account he contained funds for multiple companies?  
 7 A It was my belief, yes. How it was expressed to  
 8 me, yes.  
 9 Q And these funds from these multiple companies  
 10 were commingled in his trust account, and that he  
 11 maintained some kind of notation of how much belonged to  
 12 which company; is that accurate?  
 13 A I would say that's fair, yes.  
 14 Q And in your experience, is that typical for an  
 15 SEC attorney to do that?  
 16 A Not -- I wouldn't say it's -- I wouldn't say  
 17 it's a blue moon, but it's definitely -- it's not  
 18 something we see all the time. Over the course of the  
 19 last five, ten years, I've seen it before, but more often  
 20 than not the company would just set up their own.  
 21 Q Do you know, have you heard the name Diane  
 22 Dalmy?  
 23 A I've heard the name, yes.  
 24 Q And what do you know about Diane Dalmy?  
 25 A I don't remember what her profession is. I

1 preparing the financials and all of that, I don't recall  
 2 whether I was told or not told, but I don't recall.  
 3 Q Do you know what specifics John Briner was  
 4 doing for the issuers?  
 5 A As it was explained to me, putting together the  
 6 SEC filings, specifically, I guess the S-1 as well as the  
 7 trust account for the company.  
 8 Q Okay. What does that mean, the trust account  
 9 for the company?  
 10 A It was expressed to me that they were raising  
 11 money, whether it's 20,000, 50,000, I don't know the  
 12 number. He would serve as the conduit for both the  
 13 company and the purchaser of the equity. So he would  
 14 receive the money almost like an escrow of sorts, where  
 15 he would receive the money from one, receive the signed  
 16 documents and then the company would direct him on how to  
 17 disperse funds.  
 18 Q And was it your understanding that he held  
 19 trust, or he had a trust account for all of the clients  
 20 that he referred to you?  
 21 A I don't remember if it was all or a majority.  
 22 It was more than one.  
 23 Q What was your understanding of what this  
 24 account was?  
 25 A It was an attorney trust account that the

1 can't remember if it was Securities attorney or -- I know  
 2 she's involved with, you know, smaller publicly traded  
 3 companies, but my best recollection would be that she is  
 4 either an attorney or an assistant to an attorney that  
 5 helps with preparing financials or SEC documents.  
 6 Q Do you know, did she provide the opinion  
 7 letters for the Registration Statement for, let's say,  
 8 Tuba City?  
 9 A Off the top of my head, I have no idea.  
 10 Q And what did you understand, I know you said  
 11 you don't recall the business of the company, do you  
 12 recall whether they were -- let me take that back. Did  
 13 you understand that Tuba City and the other issuers were  
 14 filing applications to obtain an OTC ticker symbol?  
 15 A Yes, I believe so.  
 16 Q And you were aware of that at the time that the  
 17 audits were being conducted?  
 18 A Yes, I believe so.  
 19 Q You testified that you understood that John  
 20 Briner, from his trust account, was paying expenses for  
 21 the issuers, correct?  
 22 A Correct.  
 23 Q And did you understand that John Briner was  
 24 providing financials to De Joya Griffith on behalf of the  
 25 issuers?

1 tells me is there's a --

2 MR. ADDISON: Why is there a difference?

3 THE WITNESS: That tells me that there's an  
4 error somewhere in the body of the Statement of Cash  
5 Flow.

6 MR. SUNSHINE: Do you know why there is an  
7 error there?

8 THE WITNESS: I don't, off the top of my head,  
9 know.

10 MR. ADDISON: Can you tell me which number ties  
11 into the balance sheet, the 19,825 or the \$12,325?

12 THE WITNESS: The \$19,825.

13 MR. ADDISON: Okay. Could you turn to page 29  
14 of 32? Look under Footnote 6. Four lines down there's a  
15 number represented there of \$4,008; is that correct?

16 THE WITNESS: Correct.

17 MR. ADDISON: Does that amount tie to the  
18 income statement within the body of the financial  
19 statements?

20 THE WITNESS: No. And that further tells me  
21 there's, somewhere between draft 1 and 2 or 3 or however  
22 many drafts, something hasn't been updated.

23 BY MR. SUNSHINE:

24 Q When you say updated, this Registration  
25 Statement, Exhibit 130 is what was filed on EDGAR with

1 the SEC, correct?

2 A Correct, from what you're telling me, correct.

3 Q And do you know why, when you say it hasn't  
4 been updated, do you know why that is?

5 A I don't know, off the top of my head, know why.  
6 No, I don't.

7 MR. ADDISON: All right. Would you go to  
8 footnote 7? The first line, there's another number  
9 written there, the \$4,008, that same number is presented  
10 in the table below, \$4,008. Can you tell me if those two  
11 numbers should tie to the income statement?

12 THE WITNESS: Correct.

13 MR. ADDISON: And do they?

14 THE WITNESS: No.

15 MR. ADDISON: Okay. Can you turn back one page  
16 to page 28 of 32? And focusing in on that Note 3, can  
17 you read the third paragraph below Note 3 it starts, "The  
18 acquisition costs have been impaired?"

19 THE WITNESS: "The acquisition costs have been  
20 impaired and expensed during 2012 because there have been  
21 no expiration activities nor had there been any reserves  
22 established and we cannot project any future cash flows  
23 or salvage value and the acquisition costs were not  
24 recoverable."

25 MR. ADDISON: If you turn back to balance

1 sheet, which is page 24 of 32, can you tell me what that  
2 \$7,500 represents?

3 THE WITNESS: It's listed as mineral property.

4 MR. ADDISON: Okay. And Note 3 on page 28 of  
5 32 is also called the Acquisition of Mineral Claim; is  
6 that correct, it's supposed to be the same, the same  
7 descriptions?

8 THE WITNESS: They should be referencing the  
9 same amount, correct, or the same -- I'm sorry, they  
10 should be referencing the same transaction.

11 MR. ADDISON: Okay. The third paragraph down  
12 on Note 3, is that saying that that \$7,500 should have  
13 been charged off?

14 THE WITNESS: Correct. So it should not appear  
15 on the balance sheet on page 24 of 32.

16 BY MR. SUNSHINE:

17 Q Do you know why it does?

18 A Again, my only estimate would be that it was a  
19 different draft and hasn't been updated.

20 Q Well, the document you're looking at is the  
21 final filed S-1 Registration Statement, correct?

22 A Correct.

23 Q So when you referred to a draft being updated,  
24 you're referring to some other documents that were not  
25 filed, correct?

1 A Correct.

2 Q Okay. Moving onto a different topic. Did  
3 there ever come a time when you learned that John Briner  
4 may have been subject to an anti-fraud injunction?

5 A Are you talking about the subpoena that was  
6 sent, that you guys sent?

7 Q No, let me take that back. Let's start with a  
8 different question.

9 Did there come a time where you had a  
10 conversation with Philip Zhang about John Briner?

11 A I don't recall. I mean -- maybe be more  
12 specific, but I probably -- at some point in time, yes,  
13 we had discussed him, but I don't recall the specifics of  
14 the conversation right now.

15 Q Okay. Well, let's say around November of 2012,  
16 during the time that the audits of the issuers were being  
17 conducted, did Philip Zhang raise any concerns with you  
18 about John Briner?

19 A Not that I can recall. That doesn't mean it  
20 didn't happen.

21 Q Did Philip Zhang -- I'm sorry, go ahead.

22 A I'm just saying that I don't recall, but that  
23 doesn't mean that sometime, I mean, in the last year, I  
24 forgot about it.

25 Q If Philip Zhang had said to you he was

1 concerned that the companies that John Briner referred  
2 to, referred to De Joya Griffith, maybe -- let me take  
3 that back. If Philip Zhang had raised to you that he had  
4 concerns about John Briner's integrity with respect to  
5 the issuers you were conducting audits for, what would  
6 you have said?

7 A If that had been raised, then, yes, I would --  
8 I would have, either whether it's have a meeting with the  
9 other partners, or we need to find out more information,  
10 what is the reason for your -- I mean, dive into the  
11 answer more than just the, okay, thanks for the update.

12 Q Okay. Now, would you consider that, if the  
13 engagement partner had raised concerns like that to you,  
14 would you consider that a significant event in an audit?

15 A I would say it's significant enough to at least  
16 warrant further discussion, investigation, what's the  
17 rationale behind, what is the potential effect on issuer,  
18 and just kind of, it would open up other questions and  
19 meetings to take place if he said he felt that the  
20 integrity of them was not good.

21 Q So you don't recall sitting here today Philip  
22 Zhang ever raising any concerns about John Briner's  
23 integrity with you, correct?

24 A In that time period, no, I do not recall.

25 Q And those extra meetings that you described in

1 everything about the issuers, and that the owners  
2 deferred to John Briner on any questions, you don't  
3 recall him raising that concern with you, do you?

4 A No, I don't recall that taking place.

5 Q Sitting here today, if those concerns were  
6 raised with you, would that raise any concerns, in your  
7 opinion, about whether or not a clean audit opinion would  
8 be issued?

9 A If he stated that him and the staff had  
10 integrity issues with management, yes, I would have  
11 concerns.

12 Q Not just management, but John Briner who was  
13 working the issuers, would that also have, sitting here  
14 today, would that cause you -- would that raise concerns  
15 for you?

16 A Given my mindset today, yes, it would. How I  
17 felt, maybe if we would have had the conversation a year  
18 and a half ago, I couldn't speak to that mindset, but,  
19 yes definitely so.

20 Q So sitting here today you don't recall coming  
21 to a decision with Mr. Zhang or any other partners on  
22 whether to continue with the engagement of the -- on the  
23 audit for the issuers; you don't recall that?

24 A I don't recall either way.

25 Q Do you recall Mr. Zhang showing you any

1 response to learning about a questionable integrity,  
2 would that be something that you would remember a year  
3 later?

4 A Possibly, depends whether or not I was in the  
5 meeting. I mean, if I was told we are having meetings  
6 because we have a concern with this person and their  
7 potential integrity, possibly yes, possibly no, depending  
8 on how it was expressed to me what else was going on.

9 Q If Philip Zhang had come to you and said, "We  
10 need to decide whether or not to continue with these  
11 clients referred by John Briner, would you have  
12 considered that a significant event in an audit? Let me  
13 ask you, a significant decision in an audit?"

14 A Yes, I would say so.

15 Q But sitting here today you don't recall ever  
16 having that type of discussion with Mr. Zhang, correct?

17 A I don't recall, correct.

18 Q And you don't recall if Mr. Zhang said that he  
19 had concerns that John Briner and Diane Dalmy worked on  
20 Pump and Dumps in the past, you don't recall him raising  
21 that with you?

22 A I don't recall having that conversation with  
23 him about that, no.

24 Q And if Mr. Zhang had said, it appears to him  
25 and his staff that John Briner is, in fact, controlling

1 documents concerning John Briner or Diane Dalmy?

2 A Off the top of my head, no. As we're sitting  
3 here, Diane Dalmy's name, I believe, at some point in  
4 time, someone may have mentioned to me her on some OTC  
5 website for attorneys, but I don't remember when that  
6 took place, or the manner in which it was, or how that  
7 information was found or anything like that.

8 Q Do you remember who might have raised that with  
9 you?

10 A It could have been, it could have been one of  
11 multiple different people.

12 Q Who would those people be?

13 A It could have been Marlene Hutcheson, it could  
14 have been Swandi Radkar, S-W-A-N-D-I, last name,  
15 R-A-D-K-A-R, who is our manager, one of our audit  
16 managers.

17 Q Anybody else?

18 A Maybe Chris Whetman, maybe Philip Zhang, maybe  
19 one of our other audit managers, I mean, those are the  
20 only names that are really -- those are the ones that I  
21 communicate more frequently anyway.

22 Q Outside of Philip Zhang, do you recall seeing  
23 any documents that referred to John Briner or Diane  
24 Dalmy?

25 A Other than that website, I don't remember

1 specifically, but again, that doesn't mean it didn't  
 2 happen. I just -- it doesn't ring a bell.  
 3 Q If you can turn to Tab 4.  
 4 MR. SUNSHINE: I would ask the court reporter  
 5 to mark the document Tab 4 as Exhibit 131.  
 6 (SEC Exhibit 131 was marked for  
 7 identification.)  
 8 BY MR. SUNSHINE:  
 9 Q This is a complaint by the Securities and  
 10 Exchange Commission against Golden Apple Oil & Gas, Inc.,  
 11 Jay Budd, John Briner and Ethos Investments, Inc. The  
 12 number is, the document number is 039-CIB-7580. Do you  
 13 recall seeing this document?  
 14 A No, I don't believe I've ever seen this.  
 15 Q Looking at page 1, first paragraph it says,  
 16 "This action concerns a fraudulent scheme to  
 17 pump-and-dump millions of shares of profitless company,  
 18 Golden Apple and its predecessors."  
 19 And looking at next page, paragraph 2 states,  
 20 "In the fall of 2004, Golden Apple's counsel, Defendant  
 21 John Briner, laid the initial groundwork for the scheme  
 22 by orchestrating an illegal offering of five million  
 23 shares of common stock" -- "company stock," excuse me.  
 24 "Briner's sham offering gave him control of 100 percent  
 25 of the company's purportedly tradeable stock and, acting

1 as an underwriter, Briner illegally distributed the stock  
 2 to persons who then started trading the stock publicly."  
 3 Sitting here today, had you known that  
 4 information, would that have raised concerns for you  
 5 regarding John Briner's integrity in referring the  
 6 issuers to De Joya Griffith?  
 7 A Yes.  
 8 Q And had you known that at the time of the  
 9 audit, what do you think you would have done?  
 10 A Likely wouldn't have -- likely wouldn't have  
 11 taken the engagement.  
 12 Q And let's say you learned it in the middle of  
 13 an engagement, what would you have done then?  
 14 A Likely discussed with management what the role  
 15 is of that person, meaning John Briner, and if he were  
 16 essential to the company or if they were willing to not  
 17 be associated with him.  
 18 Q Please turn to Tab 5.  
 19 MS. MEHRABAN: I'm sorry, just to be clear, you  
 20 don't recall that happening here, right?  
 21 THE WITNESS: Correct, I don't believe I've  
 22 seen this document other than today. It looks new to me.  
 23 BY MR. SUNSHINE:  
 24 Q If you can turn to Tab 5.  
 25 MR. SUNSHINE: And I'm asking the court

1 reporter to mark this as Exhibit 132.  
 2 (SEC Exhibit 132 was marked for  
 3 identification.)  
 4 BY MR. SUNSHINE:  
 5 Q And this is a, appears to be a news article  
 6 from the Vancouver Sun dated December 17, 2011, entitled,  
 7 "Vancouver Securities Lawyer in Good Standing Here  
 8 Despite the Five-Year Ban in the U.S." Do you recall  
 9 seeing this article before?  
 10 A It doesn't, off the top of my head, ring a  
 11 bell, no.  
 12 Q And this is not something that Mr. Zhang showed  
 13 you at any time, correct?  
 14 A Not that I recall for sure.  
 15 Q Okay. Starting with the fourth paragraph from  
 16 the top, "A perfect illustration is the case of John  
 17 Briner, a 34-year old Vancouver securities lawyer who has  
 18 facilitated many grotty companies and dodgy promoters who  
 19 deal on the unruly Pink Sheets and OTC Bulletin Board in  
 20 the United States."  
 21 Going down to the 6th paragraph, "In 2006, the  
 22 Pink Sheets banned Briner from providing legal opinions  
 23 for companies seeking listings on that market. No  
 24 reasons were given, but it's clear they didn't think much  
 25 of his work."

1 Had you known about this article and read this  
 2 at the time of the audits, would that have raised  
 3 concerns for you about John Briner's integrity?  
 4 A Yes. More specifically, to what his  
 5 involvement was in the company and if it was, like I  
 6 said, material enough where the company needed him, or if  
 7 they were willing, if they wanted to be associated with  
 8 him still.  
 9 Q So -- what would you do if you had, were  
 10 presented this information during the middle of the audit  
 11 of the issuers?  
 12 A I imagine would discuss with the company and  
 13 say, are you aware of these -- are you aware of this  
 14 situation, and just, in some respect, wait to see what  
 15 their management's response would be, and engage our  
 16 response based on that. If they were quick in action to  
 17 rid themselves, or if they had a reasonable basis to  
 18 believe, some argument that would allow him to be  
 19 associated, then I guess we would deal with it based on  
 20 how they represented and what their position was.  
 21 Q And that didn't happen in the case of the audit  
 22 of the issuers, correct?  
 23 A Not to my knowledge.  
 24 Q Going down to the second to the last paragraph  
 25 on the first page of Exhibit 132, reads, "In April of

1 this year, the B.C. Securities Commission, after hearing  
2 submissions from Briner, issued a reciprocal order  
3 suspending him from the B.C. Securities market for five  
4 years. This suspension prevents him from trading shares  
5 in B.C., acting as an officer or director of any B.C.  
6 issuing company, or acting in a management or consultive  
7 capacity in any security related matter."

8 Now, had you learned that at the time of the  
9 audit, what would have been your response?

10 A If I had known that, then, again, I would have  
11 discussed with management to see if they were aware of  
12 it, and then based on their response, would likely  
13 determine how we would proceed or lack thereof.

14 Q And by management, who are you referring to?

15 A Whether it be the Board of Directors and/or the  
16 CEO, CFO management team of the company, of whichever  
17 issuer.

18 Q In the case of the issuers that are -- that we  
19 have pointed out here, do you know -- let's say, for Tuba  
20 City Gold, do you know how many directors they had?

21 A Off the top my head, no, I don't.

22 Q You don't know how many officers?

23 A No idea.

24 Q But you don't recall, even though you have  
25 reviewed the filing for Tuba City Gold, for example?

1 with Ms. Dalmy. Together and apart the pair have been  
2 involved in dozens of schemes on the Vancouver market as  
3 well the Pink Sheet and the OTC Bulletin Board writing  
4 many dubious legal opinions resulting in millions of  
5 dollars lost by the thousands of investors. Several of  
6 their clients have been charged by the SEC for securities  
7 fraud as has Mr. Briner. Ms. Dalmy has managed to be  
8 slippery enough to avoid the charges so far."

9 Had you been aware of this news article and  
10 knowing that John Briner and Diane Dalmy were working on,  
11 were working with the issuers that were clients of De  
12 Joya Griffith, would that have raised concerns with you  
13 about the integrity of John Briner and Diane Dalmy?

14 A It would have, whether it is individual or  
15 concurrent with the other ones, it would have definitely  
16 raised questions for a conversation with the management  
17 as indicated as to their awareness -- their being aware  
18 of it or not or what their response was.

19 Q And what would their response have to be in  
20 order for De Joya Griffith to continue with the  
21 engagement of the issuers?

22 A I'm completely speculating, but I imagine it  
23 would have to be either ridding themselves of association  
24 with them or some plausible explanation as to whatever  
25 their belief was as to a reason why this was a non-issue

1 A I don't recall now, no. I mean, I could look  
2 at the S-1 right now.

3 Q Would that be a factor you would aware of  
4 though at the time you were reviewing the S-1  
5 Registration Statement?

6 A In reviewing the S-1, it would be in the S-1,  
7 so I would see that.

8 Q You can turn to Tab 6.

9 MR. SUNSHINE: I'm asking the court reporter to  
10 mark this as Exhibit 133.

11 (SECExhibit 133 was marked for  
12 identification.)

13 BY MR. SUNSHINE:

14 Q This is a news article entitled, "All That  
15 Glitter is not Greenwood's Gold, GGRI. The third  
16 paragraph on the right in the top reads, "Ms. Dalmy has  
17 developed quite a reputation for aiding and abetting  
18 public companies which have been subject of  
19 pump-and-dumps and the dubious promoters that enable  
20 them. Amongst her," quote, "partners in crime," end  
21 quote, "is Vancouver lawyer and SEC target, John Briner  
22 who has been banned from the OTC market for stock  
23 manipulation. Mr. Briner is famous for arranging the  
24 sale of Pink Sheet and Bulletin Board shells to people of  
25 questionable character and has worked for several years

1 for them.

2 Q What reason could they give you that this would  
3 be a non-issue?

4 A I can't think of any off the top of my head.

5 Q And if management knew about John Briner and  
6 Diane Dalmy's past and hired them to help nonetheless,  
7 would that raise concerns for you by management's  
8 integrity?

9 A Partially integrity, partially, maybe potential  
10 skepticism on their business savvy or just the ability to  
11 make a rational decision. I mean, there's, I'm sure  
12 there's some plausible explanation where they could come  
13 up with a reason why that it would made sense, but that  
14 would likely, on our end, increase the level of testing,  
15 or -- again, it just depends on what their response would  
16 be.

17 Q But there was no conversation or discussion  
18 like you just described with any of the owners of the  
19 issuers, correct?

20 A Correct. Not to my knowledge or recollection.

21 Q And you don't have any recollection of having  
22 seen Exhibit 133, correct?

23 A That's Tab 6, right, no, I don't.

24 Q Turning to Exhibit 7, I'm sorry, excuse, Tab 7?

25 MR. SUNSHINE: And I'm asking the court

1 reporter to mark it as Exhibit 134.  
 2 (SEC Exhibit 134 was marked for  
 3 identification.)  
 4 BY MR. SUNSHINE:  
 5 Q This is another news article entitled, David  
 6 Baines, "Two Victoria Startups Wade Into Bulletin Swamp,  
 7 dated March 17, 2011. Going to the last paragraph on the  
 8 first page reads, "What concerns me even more is that the  
 9 lawyer who filed the Registration Statement on behalf of  
 10 MoneyMinding is Diane Dalmy of Colorado. Dalmy has the  
 11 reputation for helping scoundrel promoters take dubious  
 12 companies public on the US over-the-counter markets."  
 13 And then turning the page skipping the second  
 14 paragraph says, "MoneyMinding's auditor is De Joya  
 15 Griffith & Co., LLC, which has similarly helped many  
 16 dubious companies go public on the Bulletin Board." So  
 17 first question is, were you aware of this article?  
 18 A I believe I've actually seen this article  
 19 before, or the -- at least the section that referenced De  
 20 Joya Griffith.  
 21 Q Well, with regard to the section that  
 22 references De Joya Griffith, how would you respond to  
 23 that?  
 24 A How would I respond now or?  
 25 Q Now, yes, now, I just want to know what you

1 would say upon reading that.  
 2 A I mean it makes me sick.  
 3 Q And do you recall MoneyMinding and the issuers,  
 4 that audit?  
 5 A The name is familiar, yes. I know at some  
 6 point in time I've seen the name, so I'm presuming it's  
 7 been a client of ours, yes.  
 8 Q Were you the engagement partner for  
 9 MoneyMinding?  
 10 A Probably not, but at best I would have been  
 11 concurring reviewer, but the name, I am aware of the  
 12 name. Or I've seen it on a list or something in the past.  
 13 Q Well, going back, having read, or considering  
 14 the statement I read referencing Diane Dalmy, had you  
 15 known that at the time of the audit, would that have  
 16 raised concerns to you about the integrity of the  
 17 issuers?  
 18 A It would have raised concerns --  
 19 Q And Diane Dalmy?  
 20 A Correct. It would have raised concerns about  
 21 Diane Dalmy and about what her involvement was.  
 22 Q And as we look at, on Exhibit 130, the  
 23 Registration Statement, page 1 referenced Diane Dalmy's  
 24 name, you would have been, you would have reviewed page 1  
 25 at the time of the audit, page 1 of the Registration

1 Statement at the time of the audit, correct?  
 2 A Correct.  
 3 Q And would you have taken note of who the  
 4 company's counsel was at the time of the audit?  
 5 A I would have noted, I mean, if I had seen page  
 6 1 of the S-1, I would have said, okay, I see Diane Dalmy  
 7 as the person that gets copies of all communication.  
 8 Q Well, would you also want to know whether the  
 9 issuer owed any money to Diane Dalmy for her services,  
 10 would that be something you would want to know about the  
 11 audit?  
 12 A That would, I would imagine it be handled by  
 13 the staff during a confirmation process or something to  
 14 vouch the expenses, accounts payable, things of that  
 15 nature.  
 16 Q And having known this, but there was no -- you  
 17 don't recall -- you said you do recall seeing this  
 18 article. Do you know when that was?  
 19 A No recollection.  
 20 Q Could it have been during the time of the  
 21 audit, the issuance?  
 22 A In theory, it could have been anytime from 2011  
 23 when the article was written until today. I mean, I just  
 24 don't recall enough to give even a speculation as to when  
 25 it happened.

1 Q But you do recall the statement about De Joya  
 2 Griffith, correct?  
 3 A Correct.  
 4 Q But you don't remember taking note of the  
 5 statement about Diane Dalmy; is that accurate?  
 6 A Correct. I remember my focus was on the  
 7 reference to our company.  
 8 Q Do you know if De Joya Griffith resigned as  
 9 auditor for the issuers?  
 10 A I do not know off the top of my head, no.  
 11 Q If an engagement partner, who would make the  
 12 decision of whether or not to resign as auditor for a  
 13 client at De Joya Griffith?  
 14 A If any partner felt strongly about it, I mean,  
 15 no one has, at least during the period that you're  
 16 speaking with, the ability to overrule, but for all  
 17 intents and purposes, any partner could say, we are  
 18 resigning from this client.  
 19 Q Well, so let's take a hypothetical for a moment  
 20 just so I understand. If Chris Whetman was an engagement  
 21 partner for a client and let's say Philip Zhang was a  
 22 concurring partner, could you decide to resign that  
 23 engagement even though you're not on the audit team?  
 24 A In theory, yes, but it more than likely would  
 25 be more of a I would have a conversation with Mr. Whetman

1 or Mr. Zhang and say, I feel we need to resign from this  
2 client because of X, Y and Z that has taken place, or  
3 that I've heard, or that we need more information or  
4 these are the reasons why I feel this way.

5 Q All right. Well, if an engagement partner  
6 decided on their own to resign, would they tell you about  
7 that?

8 A I would likely hear about it, or possibly not.  
9 Depends on the materiality of the client, how far along  
10 they were, whether -- it depends on -- I mean, there  
11 could be situations the answer is yes, and there could be  
12 situations where the answer is no.

13 Q Sitting here today, you have no recollection of  
14 whether De Joya Griffith resigned as auditors for the  
15 issuers?

16 A Off the top of my head, I don't know the answer  
17 to that question. I know we have resigned from a lot of  
18 clients lately, but I don't know -- I don't know when,  
19 what the time frame is for those, and/or which ones we  
20 are talking about.

21 Q Well, we are talking about issuers that we  
22 identified in the beginning.

23 A Correct. I'm sorry. I meant in terms of I  
24 don't know which ones that we have resigned from that  
25 would also appear on the list that you've mentioned

1 have substantial transactions going on.

2 Q Have there been any other management changes in  
3 De Joya Griffith at any time since the audits of the  
4 issuers?

5 A I mean, we were making shifts internally for  
6 how different divisions are going to be run where  
7 different people are focusing their time and effort to  
8 hold people more accountable, everything from  
9 realization, to profitability, to planning for managers  
10 who eventually may want to become partners as well as,  
11 like I said, the other divisions that require more time.

12 Q Arthur De Joya, was he ever a managing partner  
13 of De Joya Griffith?

14 A If he had been, it was probably a short period  
15 of time.

16 Q As the only other managing partner, wouldn't  
17 you know that there was one other managing partner?

18 A In the last eight years, he may have been  
19 managing partner for less than 12 months during that  
20 duration.

21 Q Was he managing partner the last two years?

22 A No. No.

23 MR. SUNSHINE: Maybe we can take a ten-minute  
24 break.

25 THE WITNESS: Okay.

1 involved in this case. I just don't have that  
2 information with me. I could find out fairly quickly,  
3 but --

4 Q When you say that you resigned from some  
5 clients, a lot of clients lately, what do you mean by  
6 that?

7 A Part of our management process, management  
8 consulting, we are looking at all of our clients to  
9 determine everything from profitability, to utilization  
10 of staff, to realization, to which ones we want to focus  
11 for the upcoming audit season.

12 Q And how would that, how does that lead you to  
13 resign from a client, what you just described?

14 A Whether the fees don't justify the time that's  
15 put in, or maybe the potential risk, or the staff that  
16 are associated with that engagement are moving onto  
17 different projects so we don't have the time for it, or  
18 just -- or just we get a new job and that job requires us  
19 to get rid of a couple of other jobs.

20 Q Okay. One of the items you mentioned was a  
21 potential risk, what did you mean by that?

22 A Meaning potential risk of a development staged  
23 company, whether it be risk for them paying their bill,  
24 or risk for the transactions not being -- just maybe not  
25 comfortable, and the dealing with a client that doesn't

1 MR. SUNSHINE: I think that we are near the  
2 end. So we are going off the record at 2:34 p.m. Eastern  
3 Standard Time, December 5, 2013. We will take a  
4 ten-minute break. Thank you.

5 THE WITNESS: Thank you.

6 (A brief recess was taken.)

7 MR. SUNSHINE: Going on the record at 2:45 p.m.  
8 Eastern Standard Time on December 5, 2013.

9 BY MR SUNSHINE:

10 Q Mr. Griffith, during the break, we did not have  
11 any substantive conversations about your testimony,  
12 correct?

13 A Correct.

14 Q Okay. I think we are nearly done. Just a  
15 couple more questions.

16 Before the break we discussed some specific  
17 concerns about the integrity of Diane Dalmy and John  
18 Briner. If your staff had had those concerns, would you  
19 expect them to raise them with you?

20 A Probably not directly with me, but with their  
21 engagement partner.

22 Q So I understand the flow, if there was some  
23 serious concerns about the integrity of the people  
24 associated with an engagement, you would expect the staff  
25 to first raise it with the engagement partner?

1 A I mean, in a perfect world, yes, but if the  
 2 staff wants to raise integrity issues with me about a  
 3 client, I have no -- I'm not going to shun them away, I  
 4 would likely discuss it with the engagement partner and  
 5 ask them, direct it to them first because I'm removed  
 6 from that situation currently.  
 7 Q Okay. And if a staff had raised it with an  
 8 engagement partner, and you were the concurring partner,  
 9 would you expect that engagement partner to raise those  
 10 concerns with you?  
 11 A I would like it, yes. Yes, I would expect so,  
 12 for some level of overview of the whole engagement to  
 13 understand the background and things in that regards.  
 14 Q And do you recall telling Mr. Zhang at any time  
 15 during the audit of the issuers that you thought it was  
 16 okay to continue with the audits because Mr. Briner was  
 17 only acting as a consultant?  
 18 A I don't remember that, no, I don't remember  
 19 that conversation. That doesn't mean it didn't happen,  
 20 but I have no recollection of it.  
 21 MR. SUNSHINE: Okay. We have no further  
 22 questions at this time. We may, however, call you again  
 23 to testify in this investigation. Should this be  
 24 necessary, we will contact you. Do you wish to clarify  
 25 anything or add anything to the statements that you made

1 PROOFREADER'S CERTIFICATE  
 2  
 3 In The Matter of: LA PAZ MINING CORP.  
 4 Witness: Jason Griffith  
 5 File Number: NY-08922-A  
 6 Date: Thursday, December 5, 2013  
 7 Location: Los Angeles, CA  
 8  
 9 This is to certify that I, Donna S. Raya,  
 10 (the undersigned), do hereby swear and affirm that the  
 11 attached proceedings before the U.S. Securities and  
 12 Exchange Commission were held according to the record and  
 13 that this is the original, complete, true and accurate  
 14 transcript that has been compared to the reporting or  
 15 recording accomplished at the hearing.  
 16  
 17 \_\_\_\_\_  
 18 (Proofreader's Name) (Date)  
 19  
 20  
 21  
 22  
 23  
 24  
 25

1 today?  
 2 THE WITNESS: No, not at this time.  
 3 MR. SUNSHINE: Okay. We are off the record at  
 4 2:47 p.m. December 5, 2013, and that's Eastern Standard  
 5 Time.  
 6 (Whereupon, at 11:47 a.m. (PST); 2:47 p.m.  
 7 (EST), the examination was concluded.)  
 8 \*\*\*\*\*  
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# **EXHIBIT**

**7**

Page 1

1 THE UNITED STATES SECURITIES AND EXCHANGE COMMISSION

2

3 In the Matter of: )

4 ) File No. NY-08922-A

5 LA PAZ MINING CORP. )

6

7 WITNESS: Arthur De Joya

8 PAGES: 1 through 74

9 PLACE: Securities and Exchange Commission

10 Los Angeles Regional Office

11 5670 Wilshire Boulevard

12 11th Floor

13 Los Angeles, California 90036

14 DATE: Thursday, December 5, 2013

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16 In the above-matter came on for hearing, pursuant to

17 notice, at 12:21 p.m. (PST); 3:21 p.m. (EST)

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24 Diversified Reporting Services, Inc.

25 (202) 467-9200

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1 APPEARANCES:

2

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4 On behalf of the Securities and Exchange Commission

5 (Via video teleconference):

6 JASON SUNSHINE, ESQ.

7 LARA SHALOV MEHRABAN, ESQ.

8 JAMES ADDISON, CPA

9 Securities and Exchange Commission

10 200 Vesey Street, Suite 400

11 New York, NY 10281

12 (212) 336-9090

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15 On behalf of the Witness:

16 ARTHUR DE JOYA, PRO SE

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1 PROCEEDINGS

2 MR. SUNSHINE: Okay. We are on the record at

3 3:21 p.m. Eastern Standard Time on December 5, 2013.

4 Mr. De Joya, please raise your right hand.

5 MR. DE JOYA: (As requested.)

6 MR. SUNSHINE: Do you swear or affirm to tell

7 the truth, the whole truth and nothing but the truth?

8 MR. DE JOYA: Yes, I do.

9 Whereupon,

10 ARTHUR DE JOYA

11 was called as a witness and, having been first duly

12 sworn, was examined and testified as follows:

13 EXAMINATION

14 BY MR. SUNSHINE:

15 Q Please state and spell your name for the

16 record.

17 A Sure, Arthur T. De Joya, A-R-T-H-U-R, and De,

18 D-E, space, J-O-Y-A.

19 Q I'm Jason Sunshine, to my right is Lara

20 Mehraban, to my left is Jim Addison, and we are officers

21 of the Commission for the purposes of this proceeding.

22 This is an investigation by the SEC in the

23 matter of La Paz Mining Corp., No. NY-8922 to determine

24 whether there have been violations of certain provisions

25 of the federal securities laws. However, the facts

1 time, so I don't recall the exact years, but roughly  
2 around that time.

3 Q And what professional licenses do you have?

4 A CPA license with the State of Nevada.

5 Q And when did you get that?

6 A Boy, that's a good question. I believe, I  
7 would say that's probably like around, hum, '97. I'm  
8 guessing. I believe it's around '97 in Nevada, but I  
9 also had a license previously in the State of California  
10 as well, too.

11 Q When did you get the California license, the  
12 California license being a CPA?

13 A Yes, the one in California, I believe it was  
14 '94. Roughly '94, '95, but roughly around that time.

15 Q Can you describe your work history starting  
16 from when you graduated from college?

17 A Sure. After I graduated from the University of  
18 Nevada, Las Vegas, I moved to Southern California, and  
19 there I worked with a local accounting firm, primarily  
20 doing a lot of general accounting and they did some small  
21 audits. The name of that firm was J. C. Moore  
22 Accountancy. I was with them about a year and a half.  
23 And then from there, I went to work with a regional firm  
24 in California called, back then it was called Macias &  
25 Miranda, but now it's called Macias & Genie, which

1 primarily all they did was audit. The majority of their  
2 clients were governmental type clients. So that's what I  
3 worked on primarily. And then from there, I was there --

4 Q What year -- I'm sorry. What year did you join  
5 that firm?

6 A I want to say -- boy, I think it's '92 to '93,  
7 something like that. I was with them for about two  
8 years. And then from there I went with McGladrey & Pullen  
9 in San Bernardino. And I was with McGladrey for about a  
10 year and a half, from, I believe, like '93, '94 through  
11 '95, '96. And then from there, went to work with KPMG in  
12 the Las Vegas office. I was with them for about 2-1/2  
13 years. And then left --

14 Q What did you do at KPMG?

15 A What did I did with KPMG? All audits, same  
16 thing with McGladrey, all audits. With McGladrey I did a  
17 lot of bank audits as well as governmental audits. And  
18 then when I went over to KPMG, I did a lot of bank  
19 audits, quite a few governmental audits, and then a  
20 handful of SC clients, clients that were going public  
21 initially.

22 Q And you left KPMG about what year?

23 A About mid, I'm sorry, late '97 and went with a  
24 firm that's now called L. L. Bradford.

25 Q And how long were you there?

1 A At L. L. Bradford, I was there for about, for  
2 about five years.

3 Q So that's --

4 A Roughly.

5 Q Roughly?

6 A I left about 2002.

7 Q Okay. Then where did you go after that?

8 A And then from there, for about a year, I did a  
9 lot of consulting assignments. But a year after that, I  
10 went ahead and formed De Joya & Company, which actually  
11 did a lot of small audits as well as general accounting  
12 and tax services.

13 Q And how many partners were in De Joya &  
14 Company?

15 A I believe it was myself at the time.

16 Q Okay. And what year was that?

17 A I believe around, I believe, late 2003. I want  
18 to say roughly around late summer, early fall of 2003.

19 Q And then what after that?

20 A Then from there, in 2005, I merged my practice  
21 with Jason Griffith's practice, as a result forming De  
22 Joya Griffith.

23 Q And then at that time when you merged, how many  
24 partners were there?

25 A Just Jason and myself.

1 Q And was it an equal partnership or how about if  
2 you describe how much equity you had versus Mr. Griffith?

3 A Initially it was a 50/50 partnership, however,  
4 later on it did change. I believe it changed somewhere  
5 around nine -- I'm sorry, not 1997. 2007 where it became  
6 a 60/40, me being 60 percent, Jason being 40 percent, but  
7 initially it was 50/50.

8 Q So when it became 60/40, what year was that?

9 A I want to say 2007.

10 Q Okay. And why did it change?

11 A Just because the number of clients I brought in  
12 versus the number of clients he brought in. And not only  
13 that, but when we initially merged, my practice was much  
14 larger than his. So we kind of revisited that whole  
15 thing to see whether or not it was fair on my part to  
16 come off where it's a 50/50 partnership when I brought in  
17 more of the clients initially when we merged our  
18 practice.

19 Q So at the time you merged and were 50/50, would  
20 you have been considered a non-managing partner or both  
21 of you managing partners or was that not relevant?

22 A Well, I always let the managing partner lie  
23 with Jason because my emphasis was more on building up  
24 the business and him managing the practice.

25 Q And was that true when it became a 60/40 split?

1 A Yes. He was still the managing partner,  
 2 correct.  
 3 Q Does it remain a 60/40 split today?  
 4 A No, it's much different now because we do have  
 5 other partners. Marlene Hutcheson, Chris Whetman, Philip  
 6 Zhang, so they have ownership now, so I don't recall what  
 7 the exact percentage is, but I believe my percentage is  
 8 roughly around 42 – between 42 and 45 percent.  
 9 Q So you're still the largest shareholder in the  
 10 firm?  
 11 A Yes, yes, yes.  
 12 Q Okay. And is Mr. Griffith still a managing  
 13 partner?  
 14 A Yes.  
 15 Q Today. And has he been for the past two years?  
 16 A Yes.  
 17 Q And maybe we can take a step back. When did  
 18 Marlene Hutcheson become a partner?  
 19 A I believe it was in 2008.  
 20 Q Okay. And Chris Whetman, when did he become a  
 21 partner?  
 22 A He became a partner, I want to say 2011, 2012  
 23 it's one of those two years.  
 24 Q And Philip Zhang?  
 25 A I believe he came on probably 2011.

1 A I'll say, at a minimum, 75 percent roughly. I  
 2 do take some tax CP, but that's only maybe, I would say  
 3 at the most, a quarter of the CP I would take.  
 4 Q Turning to De Joya Griffith policies, can you  
 5 describe for me De Joya Griffith's client acceptance  
 6 policies and procedures?  
 7 A Yes. I know that's something that we have been  
 8 continually trying to refine. We started doing the  
 9 policies and acceptance procedure, I believe, about a few  
 10 years ago. So we are continually refining it, but as it  
 11 stands right now, basically anytime we have a client that  
 12 we are looking to possibly accept, we will go through the  
 13 process of doing a background check on all of the  
 14 principals involved.  
 15 Q And you said a couple of years. Do you have a  
 16 more precise time frame of when you implemented?  
 17 A No, I don't, because we left that up to Marlene  
 18 Hutcheson to really work on all the quality controls of  
 19 the firm.  
 20 Q Okay. Well, would you have had the policy you  
 21 just described in 2012?  
 22 A I believe we did, but I'm not sure how much of  
 23 it was in full effect yet.  
 24 Q Okay. So you mentioned it was Marlene  
 25 Hutcheson's responsibility for creating client acceptance

1 Q Are there any other partners?  
 2 A No. Well, there's no other equity partners.  
 3 We do have one non-equity partner, but he's on the tax  
 4 side.  
 5 Q And who is that?  
 6 A That is Paul Weinberg. He's out of our Chicago  
 7 office, but he's a non-equity partner and he primarily  
 8 focuses all of his time on taxes.  
 9 Q Can you describe for me what, in the way of  
 10 continuing professional education, you engage in?  
 11 A Sure. Definitely, I, at a minimum, I go to all  
 12 the PCAOB conferences that's made available for both, all  
 13 the updates as well as the broker/dealers, and then also  
 14 if there are any conferences being sponsored by the IACP,  
 15 or the, I can't remember, I think it's the SC Institute,  
 16 normally I try to go to those ones.  
 17 Q And in the course of, let's say, a year, can  
 18 you describe what percentage of time would be dedicated  
 19 to issues concerning GAAP, Generally Accepted Auditing  
 20 Standards?  
 21 A The majority is all GAAP updates for the most  
 22 part.  
 23 Q But what about GAAS?  
 24 A Yes, GAAP and GAAS, I'm sorry.  
 25 Q So is that 90 percent?

1 policies and procedures; is that correct?  
 2 A Well, it wasn't just her, it was really, we  
 3 kind of divvied up that whole quality control between  
 4 Marlene and Chris Whetman. We kind of put them kind of  
 5 at the responsibility of trying to develop more of a  
 6 robust quality control for the firm.  
 7 Q And can you describe, what's your role in  
 8 accepting new clients?  
 9 A What's my – well, really it's – my role in  
 10 accepting? I mean, I don't really have a role in terms  
 11 of, I just take a look at what clients are being accepted  
 12 and make sure we all agree that this is a client that we  
 13 all want to take on. I mean, no, there's not any formal  
 14 process in my part, unless it's a client that I brought  
 15 in, then I'll go ahead and fill out the acceptance form.  
 16 Q So is it typically a decision among all the  
 17 partners of whether to accept or not any particular  
 18 client?  
 19 A In general. So what we'll do is – I'm sorry,  
 20 we'll present what client we are looking to bring in and  
 21 make sure that there isn't any issues with it.  
 22 Q Can you turn to Tab 9 in your binder?  
 23 This is a document entitled, New Client or New  
 24 Client Acceptance Process. It has been previously marked  
 25 as Exhibit 1. Do you recognize this document?

1 A From talking with my team.  
 2 Q And what did your team tell you?  
 3 A That cash was paid on these claims.  
 4 Q That's it?  
 5 A I mean, that's all I asked, so --  
 6 Q What did you ask?  
 7 A How were these claims acquired. I mean, what  
 8 was the consideration?  
 9 Q And who did you ask?  
 10 A I don't recall who I asked specifically. I'm  
 11 assuming it might have been Philip or -- it must have  
 12 been Philip or possibly even Swandi at the time, I'm not  
 13 exactly sure who I asked.  
 14 Q Okay. But whoever you asked, one of those two  
 15 people, the response you recall was cash?  
 16 A Yes. That's -- why I believe it was cash,  
 17 correct.  
 18 Q And when would you have asked that question?  
 19 A I always like to know how, the reason why is  
 20 because if mining claims were acquired with shares,  
 21 there's an issue with valuation, so that's why it's  
 22 always important for me to know how these mining claims  
 23 were acquired, whether it was through cash or shares,  
 24 because the issue comes down to how are these mining  
 25 claims be recorded, at what value and how are they being

1 valued?  
 2 Because if they were acquired with shares, then  
 3 it becomes very challenging in trying to value these  
 4 mining claims, because the problem is when you have a  
 5 brand new start of a company, you know, it's -- there's  
 6 very little history on trying to determine what the value  
 7 of these shares are. So that's why I always want to know  
 8 how these mining claims were acquired.  
 9 Q Do you know who referred the issuers to De Joya  
 10 Griffith as clients?  
 11 A That, I'm not sure. I do recall that Philip  
 12 mentioned that there was a whole bunch of clients that's  
 13 going to be coming onboard through a person by the name  
 14 of John Briner, that there's a lot of, I guess, companies  
 15 that they are going to start up for mining exploration.  
 16 But outside of that, I don't recall exactly who actually  
 17 referred all of these clients.  
 18 Q And do you know John Briner?  
 19 A No, I don't. I don't know him, never met him,  
 20 never spoken to him.  
 21 Q Have you ever had any email contact with John  
 22 Briner?  
 23 A I don't recall if I ever had. I don't know the  
 24 person.  
 25 Q So -- I'm sorry, go ahead.

1 A I don't know John Briner, and I don't recall  
 2 ever having any email correspondences. Again, you know,  
 3 I know John Briner based upon what Philip's has mentioned  
 4 about him.  
 5 Q So do you understand that -- is it your  
 6 understanding that Philip was the person who knew John  
 7 Briner?  
 8 A No, I'm not saying he knew it, knew it, but I  
 9 think there was some contact where, I'm not sure exactly  
 10 how John Briner got referred to our firm. But apparently  
 11 Philip was the one who actually had to be discussing with  
 12 John Briner about bringing on all of these clients. But  
 13 that's really the extent of my knowledge on that.  
 14 Q How do you know that?  
 15 A I'm sorry, how do I know that? Discussions.  
 16 Q How do you know -- go ahead.  
 17 A Discussions with Philip, when he had mentioned  
 18 it to me. This is back when all of these clients were  
 19 coming onboard.  
 20 Q So is it your understanding that the issuers we  
 21 have identified in the subpoena, I'm talking about the  
 22 nine that were De Joya Griffith clients, do you  
 23 understand that to be the first set of clients that came  
 24 to De Joya Griffith from John Briner?  
 25 A I believe so, but I'm not a hundred percent

1 sure on that.  
 2 Q Did you ever work -- so was there any other  
 3 clients -- did you ever work with John Briner on any  
 4 other audit other than the issuers that we have  
 5 identified?  
 6 A No, this is the first time we have had any  
 7 working relationship with John Briner, which were these  
 8 clients that were brought in.  
 9 Q Do you have any understanding of what Briner's  
 10 role was with respect to the issuers?  
 11 A I don't recall offhand. I thought he was  
 12 coming in as the one helping with the preparation of the  
 13 filings. And when I say filings, I'm talking about the  
 14 S-1. I don't know if he was the attorney or not, but I  
 15 wasn't sure exactly what his capacity was, but I thought  
 16 he was somehow working in that legal capacity where he  
 17 was actually helping with the preparation of the S-1.  
 18 Q Did he, do you know if he produced the  
 19 financials on behalf of the issuers?  
 20 A I don't know that.  
 21 Q Did he hold the issuers' funds in a trust  
 22 account?  
 23 A I don't know that.  
 24 Q Who would have been the individual who accepted  
 25 the issuers as clients?

1 A I want to say Philip, but I'm not a hundred  
2 percent sure. I'm not sure exactly who brought in the  
3 clients, but again, you know, discussion with Philip, I  
4 thought he may have been the one who actually had the  
5 first contact with John Briner, but it may have been  
6 Philip, but I'm not a hundred percent sure.

7 Q So if Philip had conducted, if Philip had  
8 brought in the clients, would it have been his  
9 responsibility to conduct the background check in  
10 connection with De Joy's Client Acceptance Policy and  
11 Procedures?

12 A Yes. He would have been the one responsible.

13 Q Do you know if he did that background check?

14 A I do not know.

15 Q Do you have an understanding that, at the time  
16 of the audit, that the issuers were seeking to get an OTC  
17 ticker symbol for trading on the OTC ticker markets?

18 A I just want to make sure I clarify your  
19 question. Was it my understanding that that was what they  
20 were trying to pursue, to get an OTC symbol?

21 Q Yes. Among other things, but one of the things  
22 was that do you understand they were also trying to get a  
23 trading symbol?

24 A I'm assuming that's always the case with any of  
25 our clients filing the S-1 to, not only get the

1 A I don't recall Dakota Creek at all.

2 Q Do you recall?

3 A I definitely was not the engagement partner.  
4 For the most part, I'm not the engagement partner for  
5 pretty much any of our clients now, I'm just a concurring  
6 partner, but as far as Dakota Creek, I don't recall if I  
7 was the concurring partner or not.

8 Q What about Gaspard Mining?

9 A I don't recall if I was the concurring partner  
10 or not.

11 Q Do you recall, do you recall those issuers as  
12 being clients of De Joya Griffith?

13 A Yes, I do.

14 Q Do you know who referred those clients?

15 A No, I don't. At least I don't recall who  
16 referred those clients?

17 Q Did John Briner refer those clients to De Joya  
18 Griffith?

19 A That, I don't know.

20 Q Okay. Who would know that?

21 A I would have to check with my other partners to  
22 find out if they know.

23 Q Now, is there a record kept of who refers  
24 clients to De Joya Griffith?

25 A You know, that's a good question. I'm not sure

1 registration effected, but to also get it listed.

2 Q Yes.

3 MR. SUNSHINE: We are going to take a  
4 five-minute break. So going off the record at 4:15 p.m.  
5 Eastern Standard Time, December 5, 2013. Five minutes.

6 (A brief recess was taken.)

7 MR. SUNSHINE: Going on the record at  
8 4:25 p.m., Eastern Standard Time, December 5, 2013.

9 BY MR. SUNSHINE:

10 Q Mr. De Joya, during the break, we did not have  
11 any substantive discussion about your testimony, correct?

12 A No.

13 Q Well, we didn't talk about what you testified?

14 A Oh, I'm sorry, you're telling me that. I'm  
15 sorry. Okay.

16 Q Well, yes, I mean, I'm asking you if we did.  
17 Did you and I have any discussion?

18 A Oh, no.

19 Q During the break about your testimony?

20 A No.

21 Q I'm sorry. That's, we have to clarify that  
22 each time we go on and off the record.

23 A Sure.

24 Q In about 2010, or 2011, were you the engagement  
25 partner or concurring partner for Dakota Creek?

1 that we actually do have something that shows how the  
2 client was referred to us or not. I don't know if we do  
3 have anything that tracks who referred what to us.

4 Q Okay. Well, we will just put that on our list  
5 of information we would like to get. And also in  
6 particular, who were the lead concurring partners on  
7 Dakota Creek and Gaspard Mining.

8 So in addition to that, do you recall if Philip  
9 Zhang was in any way either an engagement or concurring  
10 partner on Dakota Creek or Gaspard Mining?

11 A I don't recall who was the engagement partner  
12 on either one of those.

13 Q If you can turn to Tab 8 in your binder. This  
14 is a letter from is Metrowest Law dated October 25, 2013  
15 to La Joya Griffith by John Briner, and this has been  
16 previously marked as Exhibit 69. Do you recognize this  
17 document?

18 A I don't recall this document.

19 Q The substance reads, "We are providing this  
20 letter in connection with our involvement in the  
21 management of Jervis Explorations, Inc. We confirm that  
22 Mr. John Briner is only a director of Jervis Explorations  
23 Inc., as such, he neither holds any ownership interest in  
24 that company nor is he involved in any decision-making  
25 process of Jervis Explorations, Inc.

1 like that. I honestly don't remember how many clients we  
2 had with Diane Dalmy.

3 Q Can you turn to Tab 11 in your binder?

4 MR. SUNSHINE: And I'm asking the court  
5 reporter to mark the document Tab 11 as Exhibit 136.

6 (SECExhibit 136 was marked for  
7 identification.)

8 BY MR. SUNSHINE:

9 Q And Exhibit 136 is a Registration Statement  
10 filed by Gaspard Mining, Inc. Do you recognize this  
11 document?

12 A I'm familiar with it, but I don't recall all  
13 the particulars behind it.

14 Q So this document would have been the S-1 that  
15 you reviewed at the time you conducted your view of the  
16 audit for Gaspard Mining, correct?

17 A That would be correct, yes.

18 Q Now, do you see on the middle of the page, it  
19 says, copies of all communication to Diane B. Dalmy,  
20 Attorney At Law?

21 A Yes, I do see that.

22 Q Now, at the time of the audit, this would have  
23 been something you would have noted, that Diane Dalmy was  
24 the counsel as listed on the first page of the  
25 Registration Statement?

1 A I would have definitely noticed it at the time  
2 of my review, yes.

3 Q What does it mean to you that Diane Dalmy was  
4 listed as counsel on, or as noted, noted on page 1 of the  
5 Registration Statement to you?

6 A What does it mean that -- that her --

7 Q I take that back, I'm sorry. That was  
8 convoluted. Was it significant that Diane Dalmy's name  
9 was on there to you?

10 A That she is the attorney of record for this S-1  
11 filing.

12 Q Anything else?

13 A That any kind of comments or anything related  
14 to this filing, I'm assuming it would be filtered to her,  
15 along with the company.

16 Q Do you know who provided the attorney opinion  
17 letter that supported the filing, the S-1 filing for  
18 Gaspard Mining?

19 A I don't recall who provided the attorney  
20 opinion letter.

21 MS. MEHRABAN: Did you have any interaction  
22 with Diane Dalmy in connection with your review of this  
23 S-1?

24 THE WITNESS: No, I did not have any  
25 intersection with Diane Dalmy with respect to this

1 filing.

2 BY MR. SUNSHINE:

3 Q Do you believe your staff would have sought  
4 invoices for Ms. Dalmy's work in connection with the  
5 audit?

6 A I would assume so.

7 Q During the audit of the issuers, did you ever  
8 have a conversation with Philip Zhang about John Briner's  
9 integrity?

10 A No, I did not have that conversation with  
11 Philip Zhang.

12 Q Did Philip Zhang -- so you're saying that  
13 Philip Zhang never came to you raising concerns about  
14 John Briner during the time period that these audits were  
15 being conducted?

16 A There was -- with respect to this feeling here,  
17 it was not brought up. Now, later on --

18 Q With respect to any -- I'm sorry, go ahead.

19 A With respect to the Gaspard filing of the S-1,  
20 it was not brought up. However, later on, I believe  
21 sometime this year, 2013, there was something brought up  
22 about John Briner that Philip had mentioned. I don't  
23 recall exactly how that conversation came to be, but  
24 there was some concerns about John Briner, and that they  
25 were going to -- I believe Philip and the rest of the

1 team were going to follow up to see if there's any issues  
2 on John Briner or not.

3 Q Now, when did that conversation happen?

4 A I want to say this was like sometime this year.  
5 I want to say around June or -- I mean, it was sometime  
6 around the second quarter of this year. And I think this  
7 is probably because as a result of the subpoena. That's  
8 when all the discussion around the whole John Briner came  
9 to be and that's when, you know, a lot of this stuff  
10 started surfacing as far as issues that they were finding  
11 out about John Briner.

12 Q So that's your first recollection of any  
13 discussion with Philip Zhang about John Briner; is that  
14 correct?

15 A Yes.

16 Q So you did not have any conversation around  
17 November of 2012 with Mr. Zhang about concerns he had  
18 about John Briner; is that correct?

19 A I don't recall any conversations back then.

20 Q And did Mr. Zhang show you any documents that  
21 referred to John Briner during that time period of the  
22 audits?

23 A I don't know. I don't recall if there were  
24 anything shown, nor I don't recall any conversation back  
25 then as well, too.

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1 Q Prior to the June, 2013 conversation you  
2 mentioned, did Philip raise with you any concern he had  
3 that Briner was working with Diane Dalmy or that had  
4 worked with Diane Dalmy on past pump-and-dumps and may be  
5 doing it again here?  
6 A No, as far as pump-and-dumps, no, other than  
7 there was some concerns regarding John Briner about, I  
8 guess, some information they found on the Internet as far  
9 as something derogatory.  
10 Q Right. But what you just described, that  
11 information, was that in June of 2013 or was that much  
12 earlier in November of 2012?  
13 A I believe it was in June, but again, I don't  
14 recall any conversations prior to that, other than when  
15 this whole thing with regards to the subpoena occurred,  
16 that's when a lot of the discussions regarding the whole  
17 John Briner, any clients associated with John Briner,  
18 that we need to closely take a look at and determine  
19 whether or not we need to drop all of these clients or  
20 not.  
21 Q And that conversation, could that have been  
22 before January of 2013?  
23 A I don't recall. I thought it was sometime  
24 after the second quarter of 2013, because, again, this  
25 was the result of the subpoena that we received.

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1 Q Right. Now, I understand, but I'm trying to  
2 ask some questions about prior to that first before we  
3 talk about that. And so there was no -- Philip did not  
4 raise any concerns with you that John Briner appeared to  
5 control the issuers and that the owners of the issuers  
6 were deferring to Briner on questions about the issuers.  
7 Was that not raised to you?  
8 A I don't recall those conversations.  
9 MS. MEHRABAN: When Jason said that, it means  
10 prior to the time that -- of the S-1 filing for either of  
11 the issuers that you were involved in?  
12 THE WITNESS: Correct. I mean, this is  
13 something that was over a year ago. So, I mean, I don't  
14 recall these conversations at all. Like I said, the only  
15 conversation I recall specifically was when the whole  
16 subpoena came in and doing more further background check  
17 with what's going on with John Briner.  
18 BY MR. SUNSHINE:  
19 Q Understood. If concerns had been raised like  
20 we just described, would that -- would you consider that  
21 a significant decision-making point in conducting the  
22 audits for the issuers?  
23 A Absolutely. The last thing I ever want to do  
24 is be associated with any individuals or parties that are  
25 in what we call a pump-and-dump. Because, first of all,

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1 it never boils well for us and doesn't boil well for  
2 anyone involved. So if I would have known that John  
3 Briner had any kind of history as far as a pump-and-dump,  
4 absolutely, I would have ran away from him as quickly as  
5 I could.  
6 Q Moving towards what you described in June of  
7 2013, can you describe what you learned then?  
8 A Oh, what I learned then was that there was all  
9 of these things coming up on John Briner from, well, not  
10 all of these things, but they did an Internet search, a  
11 further Internet search and found, because of the  
12 subpoena, that there was more information now surfacing  
13 regarding John Briner and that's when basically we  
14 started having a lot of discussion whether we wanted to  
15 continue on with any relationship with any clients  
16 involved with John Briner.  
17 Q And what documents, were you presented with any  
18 documents that resulted from the search you just  
19 described?  
20 A No, I wasn't presented with any documents. It  
21 was just oral discussions we had.  
22 Q Oral discussion with who?  
23 A Oral discussions I had with Philip.  
24 Q Did Philip show you any documents at that time  
25 when you had that discussion?

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1 A I don't recall him showing me any documents.  
2 Q Okay. And what did he tell you, specifically?  
3 A That there was some derogatory stuff on John  
4 Briner about, I don't recall specifically what the  
5 derogatory items were. I don't know if it was  
6 specifically related to some kind of sanction he may have  
7 had in the past, but something that was derogatory.  
8 Unfortunately, I don't recall specifically what those  
9 items were.  
10 Q And about how long was this discussion you just  
11 described?  
12 A I don't know. Maybe ten, fifteen minutes or  
13 so. I don't really recall what the length -- what the  
14 length of the discussion was.  
15 Q Okay. What did you do after you had that  
16 discussion?  
17 A I told them, look you need to make sure you  
18 research everything and if, in fact, you know, what  
19 you're telling me is true, then we need to make the  
20 determination whether or not we want to keep any of the  
21 John Briner clients.  
22 Q And did anything else happen?  
23 A That was pretty much it. So I kind of left it  
24 up to them to go through the process of making that  
25 determination, and ultimately, if they feel that in fact

1 John Briner is not of the caliber of individual parties  
 2 we want to be involved with, then they should allow them  
 3 to make the decision on making sure that we resign from  
 4 those clients.  
 5 Q And do you know what decision was made?  
 6 A Well, obviously, it looks like they went  
 7 forward on resigning on all of those clients.  
 8 Q Did they consult you before resigning?  
 9 A That's a good question. I don't recall if they  
 10 did or not. I just told them, look, I'll support  
 11 whatever decision you guys come up with. There's quite a  
 12 few clients that we resign from all the time, which a lot  
 13 of times I don't know about it, so I typically support  
 14 whatever decisions my other partners come up with when it  
 15 comes to resignations.  
 16 Q So whose decision is it, ultimate decision is  
 17 it on whether or not to resign from a client?  
 18 A Well, basically you have to have discussions,  
 19 it can't just be one partner, you have to make sure that  
 20 you discuss with other partners to make sure that, in  
 21 fact, you know, the reason for resigning is because of  
 22 whatever criteria would require us to resign. So they  
 23 would talk with, like, for instance, Philip would talk to  
 24 Marlene or Chris to make sure that they are in  
 25 concurrence with the decision on moving forward and

1 resigning. And then later on, they will let me know that  
 2 they are resigning on these clients. And usually I'll  
 3 say, okay. And usually what I'll say, I support your  
 4 decision, so go ahead and do it.  
 5 Q And would the engagement partner consult  
 6 whoever the concurring partner was on the decision to  
 7 resign?  
 8 A Sometimes.  
 9 Q And in connection with Gaspard, and I believe  
 10 Clearpoint, were you consulted about resigning from those  
 11 engagements?  
 12 A I think it was pretty much a known thing. They  
 13 didn't necessarily consult with me. I think it was  
 14 pretty much known that we were going to resign. So  
 15 Philip didn't necessarily come up to me and say, hey, we  
 16 are going to resign from Gaspard and Clearpoint. I think  
 17 it was just a consensus where we were just to resigning  
 18 from all the John Briner clients.  
 19 Q Turning to Tab 4 in your binder.  
 20 MR. SUNSHINE: I'm going to ask the court  
 21 reporter to mark the document on Tab 4 as Exhibit 137.  
 22 (SEC Exhibit 137 was marked for  
 23 identification.)  
 24 BY MR. SUNSHINE:  
 25 Q This is a complaint filed by the SEC against

1 Golden Apple Oil & Gas, Inc., Jay Budd, John Briner and  
 2 Ethos Investments. Have you ever seen this document  
 3 before?  
 4 A No, I haven't seen this document.  
 5 Q And Philip didn't provide this document to you  
 6 at any time, did he?  
 7 A Not to my recollection. I don't recall ever  
 8 seeing this document.  
 9 Q Okay. Looking at page 1, paragraph 1 reads,  
 10 "This action concerns a fraudulent scheme to  
 11 pump-and-dump millions of shares of stock of a profitless  
 12 company, Golden Apple, and its predecessors." And then  
 13 turning to page 2, paragraph 2 reads, "In the fall of  
 14 2004, Golden Apple's counsel, Defendant Briner laid the  
 15 initial groundwork for the scheme by orchestrating  
 16 illegal offering of 5 million shares of company stock.  
 17 Briner's share in offering gave him a control of 100  
 18 percent of the company's purportedly tradeable stock, and  
 19 acting as an underwriter, Briner illegally distributed  
 20 the stock to persons who then started trading the stock  
 21 publicly."  
 22 Now, sitting here today, and had you known, and  
 23 had you been aware of the allegations in this document at  
 24 the time of the audit, would that have raised concerns  
 25 about whether or not to continue with the clients

1 referred to John Briner?  
 2 A Yes, absolutely.  
 3 Q But you don't recall this having been brought  
 4 to your attention, correct?  
 5 A No, I don't recall. This is all new to me.  
 6 Q If you can turn to Tab 5.  
 7 MR. SUNSHINE: I'm asking the court reporter to  
 8 mark a document in Tab 5 as Exhibit 137. I'm sorry, 138.  
 9 (SEC Exhibit 138 was marked for  
 10 identification.)  
 11 BY MR. SUNSHINE:  
 12 Q This is a news article entitled, "Vancouver  
 13 securities lawyer in good standing here despite five-year  
 14 ban in the U.S.," by David Baines dated December 17,  
 15 2011. Are you familiar with this news articles?  
 16 A I am not familiar with this.  
 17 Q So you don't recall Philip Zhang showing you a  
 18 copy of this article?  
 19 A No, I don't recall seeing this document.  
 20 Q Starting with the fourth paragraph, it reads;  
 21 "A perfect illustration in the case of John Briner, a  
 22 34-year-old Vancouver securities lawyer who has  
 23 facilitated many grotty companies and dodgy promoters who  
 24 deal on unruly Pink Sheets and OTC Bulletin Board in the  
 25 United States." Skip the next paragraph. Paragraph after

1 that reads, "In 2006, the Pink Sheets banned Briner from  
2 providing legal opinions for companies seeking listings  
3 on that market. No reasons were given, but it's clear  
4 that they didn't think much of his work."

5 Had you been aware of this article and these  
6 allegations in the article would that have raised  
7 concerns about whether or not to continue with the  
8 clients referred to De Joya Griffith by John Briner?

9 A Yes, it definitely would have.

10 Q Would you expect, if your staff had obtained  
11 this information, would you expect them to bring it to  
12 your attention?

13 A Yes.

14 Q Going to the bottom of the document, second  
15 from the last paragraph reads, "In April the B.C.  
16 Securities Commission, after hearing submissions from  
17 Briner, issued a reciprocal order suspending him from the  
18 B.C. securities market for five years. The suspension  
19 prevents him from trading shares in B.C., acting as an  
20 officer or director of any B.C. issuing company, or  
21 acting in a management or consultative capacity in any  
22 securities-related matter."

23 Had you learned, had you been aware of that  
24 fact, would that have raised concerns about continuing  
25 with the engagement of the clients referred to De Joya

1 public companies which have been subject of  
2 pump-and-dumps and the dubious promoters that enable  
3 them. Among her partners in crime is it Vancouver lawyer  
4 and SEC target, John Briner who has been banned from the  
5 OTC markets for stock manipulation. Mr. Briner is famous  
6 for arranging the sale of Pink Sheet and Bulletin Board  
7 shells to people of questionable character and has worked  
8 for several years with Ms. Dalmy. Together and apart the  
9 pair has been involved in dozens of schemes on the  
10 Vancouver market as well as the Pink Sheet and OTC  
11 Bulletin Board writing many dubious legal opinion  
12 resulting in millions of dollars lost by thousands of  
13 investors. Several of their clients have been charged by  
14 the SEC for securities fraud as has Mr. Briner. Ms.  
15 Dalmy has managed to be slippery enough to avoid charges  
16 so far."

17 Had you been aware of that paragraph at the  
18 time of the audit, would that have raised concerns about  
19 continuing, continuing with the engagement for the  
20 issuers referred to De Joya Griffith by John Briner?

21 A Yes, absolutely.

22 Q And at the time of the audit you reviewed the  
23 S-1 in connection with the issuers being concurring  
24 partner, correct?

25 A Yes.

1 Griffith by John Briner?

2 A Yes.

3 Q In particular, directing you to the reference  
4 to "barring him from acting in a consultative capacity,"  
5 did you understand that John Briner, at the time of the  
6 audit, was a consultant to the issuers?

7 A No, I was not aware that he was a consultant.

8 Q You are aware that he was the counsel to the  
9 issuers, correct?

10 A That's what I thought. I thought he was  
11 assisting with the preparation of the S-1.

12 Q But the concerns raised in this article were  
13 not brought to your attention during the time of the  
14 audit?

15 A Not to my recollection.

16 Q If you can turn to Tab 6.

17 MR. SUNSHINE: I'm asking the court reporter to  
18 mark the document in Tab 6 as Exhibit 139.

19 (SEC Exhibit 139 was marked for  
20 identification.)

21 BY MR. SUNSHINE:

22 Q This is an article entitled, "All that glitter  
23 is not Greenwood's Gold. After the ticker symbol is  
24 GGRI. And third paragraph down reads, "Ms. Dalmy has  
25 developed quite a reputation for aiding and abetting

1 Q And at the time you would have read that Diane  
2 Dalmy was the counsel of record for the S-1 Registration  
3 Statements, correct?

4 A Correct.

5 Q And when you have -- did any of your staff  
6 raise any concern that both John Briner and Diane Dalmy  
7 were working together or in association with one another  
8 in connection with the audit of the issuers?

9 A I was not aware of this. As a matter of fact,  
10 I wasn't even aware of this article on Ms. Dalmy herself.

11 Q But had you been aware of the facts that I just  
12 read to you from Exhibit 139, and knowing that on the  
13 issuers that we have discussed, both Diane Dalmy and John  
14 Briner were associated with those issuers, would that be  
15 cause for alarm for you sitting here today?

16 A Absolutely.

17 Q Turn to Tab 7.

18 MR. SUNSHINE: I'm going to ask the court  
19 reporter to mark this as Exhibit 140.

20 (SEC Exhibit 140 was marked for  
21 identification.)

22 BY MR. SUNSHINE:

23 Q Exhibit 140 is an another article by David  
24 Baines entitled, "Two Victoria Startups Wade into  
25 Bulletin Board Swamp, dated March 17, 2011. Was this an

1 article that you were familiar with? -  
 2 A I believe I read that article before in the  
 3 past.  
 4 Q Do you know when?  
 5 A Boy, I want to say, this was several years ago  
 6 because MoneyMinding at the time was a client of ours.  
 7 And apparently this article surfaced, and actually  
 8 someone brought this to my attention about this article,  
 9 and that's when I was asking what's going on with this.  
 10 Especially with MoneyMinding because I wasn't aware that  
 11 there was any of these issues surrounding MoneyMinding at  
 12 all, let alone Diane Dalmy. And then I believe we looked  
 13 into this, and I don't recall exactly what the outcome  
 14 was. All I know is that MoneyMinding, we didn't move  
 15 forward on MoneyMinding.  
 16 Q Can you repeat that, I'm sorry, I didn't hear  
 17 you?  
 18 A All I recall on MoneyMinding, we did not move  
 19 forward on MoneyMinding. Or we kind of, we kind of  
 20 ceased our moving forward and involvement with  
 21 MoneyMinding.  
 22 Q As a result of this article?  
 23 A Yes.  
 24 Q Well, two things: Well, more than that, but  
 25 would you have read this -- the article is dated March

1 17, 2011. Do you think that you became aware of it when  
 2 it was written?  
 3 A I don't recall exactly when I became aware of  
 4 this to be honest with you.  
 5 Q Who brought it to your attention?  
 6 A Actually this was brought to my attention by  
 7 somebody else outside of the firm. Someone had said,  
 8 "Hey, you need to take a look at this article," and then  
 9 I looked at it and then I brought it up to, I can't  
 10 remember who I brought it up internally, but that's one I  
 11 said, "Hey, we can't move forward on MoneyMinding  
 12 anymore."  
 13 Q And who was that person?  
 14 A I don't recall offhand to be honest with you.  
 15 This was years ago.  
 16 Q Who was the audit partner, engagement partner  
 17 for MoneyMinding?  
 18 A I don't recall who the engagement partner was.  
 19 Q And how would you find out who it was? Or wait  
 20 a second. Could you find out who it was?  
 21 A Sure. I would just have to take a look at our  
 22 audit files.  
 23 Q Okay. And the same for the concurring partner?  
 24 A Yes.  
 25 Q Would you be able to find that out from your

1 audit files?  
 2 A Yes.  
 3 Q And looking at the last paragraph on the first  
 4 page of that exhibit, "What concerns me even more is that  
 5 the lawyer who filed the Registration Statement on behalf  
 6 of MoneyMinding is Diane Dalmy of Colorado. Dalmy has a  
 7 reputation of helping scoundrel promoters take dubious  
 8 companies public on the U.S. over-the-counter markets."  
 9 Was that a fact that you took note of when this  
 10 article was brought to your attention?  
 11 A You know, I don't recall offhand, all I know is  
 12 MoneyMinding was really an issue. That's why we decided  
 13 not to continue with MoneyMinding.  
 14 Q What was the issue with MoneyMinding?  
 15 A Because of this article.  
 16 Q Well, the article -- one moment: What factors  
 17 in this article, or facts gave you concern about  
 18 continuing as the auditor for MoneyMinding?  
 19 A The fact that there's an article written about  
 20 MoneyMinding, and it's very derogatory, and the fact that  
 21 our firm is mentioned in this in a very derogatory  
 22 nature, and because of our ties with being the auditor  
 23 for MoneyMinding, didn't sit well with us.  
 24 Q So are you saying it wasn't any specific facts  
 25 that were mentioned in the article, it was the publicity

1 of being associated with an article that had a negative  
 2 account at MoneyMinding; is that what you're saying?  
 3 A Yes.  
 4 Q That's what led to --  
 5 A Yes.  
 6 Q So it's nothing that turned up in your audit of  
 7 MoneyMinding that led you to decide to resign as the  
 8 auditor?  
 9 A Correct, correct.  
 10 Q So if this would have been around the time  
 11 period of sometime around, when this article came out  
 12 that you would have, sometime after the article came out  
 13 is when you would have resigned, correct?  
 14 A Yes.  
 15 Q No, the audit for the issuers were sometime  
 16 after this article came out; in fact, you know, nine  
 17 months to a year later. Having reviewed the S-1 and  
 18 being aware that Diane Dalmy was the counsel of record,  
 19 why would you accept the new engagements after being  
 20 aware of the facts in this article?  
 21 A I honestly don't know.  
 22 Q Sitting here today, does it concern you that  
 23 you had accepted, that De Joya Griffith had accepted  
 24 eight issuers that Diane Dalmy was counsel of record on?  
 25 A Yes.

1 Q After this article came out?  
 2 A Yes. Definitely, it's very disturbing now.  
 3 Q Did you think your staff should have picked up  
 4 on the fact that Diane Dalmy was the counsel of record  
 5 for eight of the issuers that De Joya Griffith was  
 6 auditor for and that she had this particular issue in her  
 7 past?  
 8 A I don't know if the staff would have picked up  
 9 on it, but probably someone should have picked up on it,  
 10 whether it's my admin staff or as part of the engagement  
 11 acceptance process.  
 12 Q So would you consider that a mistake that this  
 13 got through?  
 14 A Yes.  
 15 Q And that you gave acceptance?  
 16 A Yes, I do.  
 17 Q Yes. Okay.  
 18 MR. SUNSHINE: We are going to take a  
 19 five-minute break. So going off the record at 5:06 p.m.  
 20 Eastern Standard Time, December 5, 2013.  
 21 (A brief recess was taken.)  
 22 MR. SUNSHINE: Okay. We are on the record at  
 23 5:14 p.m. on December 5, 2013, Eastern Standard Time.  
 24 BY MR. SUNSHINE:  
 25 Q Mr. De Joya, during the break, we did not have

1 to the statements you have made today?  
 2 A No. Actually, your last statement regarding my  
 3 staff not catching it, I had mentioned it. My staff  
 4 should have caught it, it's really the responsibility of  
 5 my admin staff and the engagement acceptance partner that  
 6 should have caught this stuff. The staff is not  
 7 necessarily responsible to catch this stuff, it's really  
 8 the acceptance process that should have caught it.  
 9 Q Now, there was a couple of bits of information  
 10 that we had asked that we would want to get from you.  
 11 I'm just going to recount those and tell me whether or  
 12 not you agree.  
 13 The first one, the first one that you were  
 14 going to check with your partners on, when the policies  
 15 and procedures document that we showed you that was  
 16 marked as Exhibit 1, what was in effect in 2012. That's  
 17 No. 1.  
 18 No. 2 is, that you were going to check with  
 19 your partners about who referred Gaspard Mining and  
 20 Dakota Creek to De Joya Griffith, and also to check who  
 21 referred the issuers we have identified in the subpoena  
 22 to De Joya Griffith.  
 23 A Yes.  
 24 Q That's No. 2. And No. 3 is -- and then the  
 25 fourth -- I'm sorry, the 3rd is, who is the engagement

1 any substantive discussion about your testimony today,  
 2 correct?  
 3 A Correct.  
 4 Q We were talking before the break, you had  
 5 testified that it was a -- that the staff should have  
 6 caught that Diane Dalmy was an attorney of record in  
 7 light of the article we talked about in Exhibit 140. And  
 8 my question to you is, on the audits where you are the  
 9 concurring partner, why didn't you pick up that Diane  
 10 Dalmy was the counsel of record?  
 11 A Honestly, I just -- I mean, I didn't recall it.  
 12 I mean, to be frank with you, I just didn't recall two,  
 13 three years later of that letter, of that article that  
 14 you had showed me, I completely forgot about that  
 15 article.  
 16 Q So you think at the time of the audit when you  
 17 were reviewing the S-1 you forgot that Diane Dalmy was in  
 18 a prior article that talked about De Joya Griffith being  
 19 an audit --  
 20 A Yes.  
 21 Q I think that we are near the end. Okay. We  
 22 have no further questions at this time. We may however  
 23 call you again to testify in this investigation. Should  
 24 this be necessary, we will contact you.  
 25 Do you wish to clarify anything or add anything

1 and concurring partner for MoneyMinding, the entity that  
 2 was referred to in the Exhibit 140 article we had talked  
 3 about. And also from MoneyMinding, the date of  
 4 resignation, the date De Joya Griffith resigned as  
 5 auditor for MoneyMinding.  
 6 A Yes. Will you be sending some kind of formal  
 7 request for that?  
 8 Q Yes, I'll send you a follow-up email.  
 9 A Okay.  
 10 Q With that, those things in it. So we are now  
 11 off the record at 5:18 p.m. Eastern Standard Time,  
 12 December 5, 2013.  
 13 (Whereupon, at 2:18 p.m. (PST); 5:18 p.m.  
 14 (EST), the examination was concluded.)  
 15 \* \* \* \* \*  
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# **EXHIBIT 8**

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In the Matter of :

JOHN BRINER, ESQ., et al. :  
----- :

**DECLARATION OF SALLY HOFFMAN**

I, Sally Hoffman, declare that:

1. I am a certified public accountant, a senior advisor to the Berdon LLP (“Berdon”) Litigation, Valuation & Dispute Resolution Group, and a member of the AAA’s National Roster of Neutral Arbitrators, with almost 35 years of experience. Berdon is a full-service accounting firm that provides audit, accounting, tax, and consulting services to clients in a wide range of industries. I have served on all three of the senior technical committees of the American Institute of Certified Public Accountants: the Auditing Standards Board (“ASB”); the Financial Reporting Executive Committee (formerly the Accounting Standards Executive Committee); and the Professional Ethics Executive Committee. As a member of the ASB’s Fraud Task Force, I helped draft the Statement on Auditing Standards No. 99, *The Auditor’s Consideration of Fraud in a Financial Statement Audit*. I received an MBA from Pace University and a BA from the University of Toronto. In addition to other awards I have received, I was awarded the Elijah Watt Sells Gold Medal for obtaining the highest score in the United States on the May 1980 CPA exam. I have extensive experience consulting on and rendering opinions in matters regarding adhering to GAAP and GAAS (including PCAOB Standards) for audit clients as well as in litigation engagements. Working on both the plaintiff and defense side, I have been retained by counsel defending CPAs and those alleging violations of professional standards.

2. The Enforcement Division of the SEC (“Division”) retained Berdon in connection with its January 15, 2015 Order Instituting Administrative and Cease-and-Desist Proceedings In the Matter of John Briner, Esq., *et al.* (the “OIP”). The Division has asked Berdon to provide its opinion regarding whether De Joya Griffith, LLC (“De Joya”), Arthur De Joya, Jason Griffith, Chris Whetman, and Philip Zhang (the “De Joya Partners”) performed the audits of the nine issuers named in OIP paragraphs 18 to 26 (the “Issuers”) in accordance with Public Company Accounting Oversight Board (“PCAOB”) Standards.

3. I provide this declaration in support of the Division’s opposition to the March 30, 2015 motion for summary disposition of De Joya and the De Joya Partners. This declaration contains only summaries of my opinions – and discusses only certain of my opinions – regarding the De Joya audits of the Issuers. I intend to submit a more detailed report, containing both additional and more detailed opinions (consistent with the opinions contained herein), on April 20, 2015, in accordance with the schedule for submitting expert reports in this case.

4. As explained in greater detail below, De Joya and the De Joya Partners grossly failed to audit the Issuers in accordance with PCAOB Standards. Consequently, contrary to the statements in De Joya's auditor reports for the Issuers, the audits were *not* conducted "in accordance with the standards of the [PCAOB] (United States)," and the financial statements of the Issuers did *not* "present fairly, in all material respects, the financial position of [the Issuers as of the year-end date], and the results of its operations and cash flows for the [relevant] periods ... in conformity with U.S. [GAAP]." The PCAOB standards violations described below demonstrate two overarching themes.

5. First, De Joya and the De Joya Partners violated PCAOB standards by failing to respond adequately to various risks of fraud related to the audits, including John Briner's relationship to the Issuers; Briner's prior SEC fraud charges and reputation for fraud; Briner's suspension from practicing before the SEC; conflicting Issuer financial information that Briner supplied to De Joya; and Issuer attorney Diane Dalmy's reputation for fraud. In light of this information, De Joya and the De Joya Partners failed to plan appropriate additional procedures, and take appropriate action, necessary to ascertain the nature of the Issuers, their purpose, their funding, their operations, and their relationships to Briner. Had the De Joya Partners performed these procedures, they would have discovered – to the extent it was not already apparent to them from the above-described information – even more extreme risk, if not knowledge, that the Issuers' Officers were mere conduits for a fraudulent scheme orchestrated by Briner. The only appropriate auditor response to such fraud risk was to resign from the eight ongoing De Joya audit engagements, and to withdraw De Joya's prior audit report for Issuer La Paz Mining Corp. ("La Paz").

6. Second, De Joya (the firm), Zhang and Whetman violated PCAOB standards by failing to obtain sufficient reliable audit evidence regarding the assets, liabilities, and transactions reported in the Issuers' financial statements. The Issuers' financial statement consisted primarily of: (1) two purported assets – cash and mineral rights; and (2) two purported transactions – the Issuers' sale of stock to each Issuer's sole Officer; and each Issuer's acquisition of mineral rights. De Joya, Zhang and Whetman failed to obtain any reliable evidence regarding the existence of either the Issuers' purported assets or their purported transactions. Obtaining such audit evidence is basic to any audit, and De Joya's failure to do so rendered De Joya's audits no audits at all.

7. As used in this declaration, the terms "AU," "AS," and "QC" refer to official PCAOB auditing standards in effect at the time of the audits at issue.

**I. De Joya and the De Joya Partners Failed to Respond Adequately to the Risk that John Briner and Diane Dalmy Were Engaging in Fraud**

8. Before and during the audits of the Issuers, De Joya and the De Joya Partners received information that should have led them to question Briner's and Dalmy's integrity, information that presented a substantial risk of fraud. Although PCAOB Audit Standards specifically required De Joya and the De Joya Partners to take certain actions in response to receiving this information, they failed to take appropriate action.

9. The evidence that the Division supplied to me indicates that, in two prior De Joya audits (in March 2011 and February 2012, respectively), Arthur De Joya and Zhang received information that Briner had filed Forms S-1A without the audit firm's consent. The evidence further indicates that, in November 2012, all of the De Joya Partners learned that: (1) the SEC had sued Briner for securities fraud, and Briner had consented to a five-year bar from practicing before the SEC (which was in effect at the time); (2) a press article reported similar regulatory action by Canadian authorities against Briner; and (3) press articles reported derogatory activities by Briner and Dalmy, as well as Briner and Dalmy's pattern of working together on dubious schemes (including, among other things, that Briner was famous for arranging Pink Sheet and Bulletin Board shell companies).<sup>1</sup>

10. Any reasonable auditor exercising due professional care and professional skepticism (as required by AU §230) should have been extremely concerned about the risks inherent in this information and should have taken steps to properly evaluate these risks, specifically, the risk of acceptance of and/or continuance with this client relationship (as required by AS 9, ¶6.A; QC 20:14); the risk of financial statement misstatement and fraud (as required by AS 12; AS 13; AU §316); and the risk of association with clients (or their employees) lacking integrity (as required by QC 20). In this case, such concern should have been heightened by the central, and conflicting, roles Briner played vis-a-vis the Issuers *i.e.*, controlling both the recording of Issuer transactions in their books and records and the custody of Issuer cash and other balance sheet items; acting as the Issuers' lawyer; providing of all the audit support and information; and creating the Form S-1 registration statements. Briner was virtually De Joya's sole contact regarding the Issuers, and the information described above called into question Briner's intentions, integrity and reliability. In addition, given the limited nature of the Issuers' operations, Briner's reputation for organizing shell companies should have caused a reasonable auditor exercising professional skepticism to question whether Briner was doing the same thing in this instance.

11. PCAOB Standards – QC 20, AS 7, AS 9, AS 12, AS 13, AU 230, and AU 561 – provided a road map for De Joya and the De Joya Partners to respond appropriately under these circumstances, but they failed to do so.

12. Under AS 12, upon receiving the deleterious information described above, the De Joya Partners were required to assess the risk of material misstatement and fraud, to reevaluate the client acceptance/continuance decisions, and to respond appropriately. The risk assessments and response had to be performed with due professional care and professional skepticism. (AU §230). "Professional skepticism is an attitude that includes a questioning mind and a critical assessment of audit evidence." (*Id.* §230.07). AS 13 provides additional guidance on the application of professional skepticism. "The auditor's responses to the assessed risks of material

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<sup>1</sup> Zhang testified that he provided Griffith, Arthur De Joya, and Whetman the above information regarding Briner and Dalmy in November 2012; that he discussed that information with the other De Joya Partners at that time; and that Zhang, Griffith, and Arthur De Joya arrived at the conclusions discussed below regarding that information. For the purpose of this declaration, the Division has asked me to accept as true Zhang's testimony regarding these matters.

misstatement, particularly fraud risks, should involve the application of professional skepticism in gathering and evaluating audit evidence.” (AS 13, ¶7).

13. Under AS 9 and QC 20, De Joya’s risk assessment also should have included an assessment of whether to continue the client relationship. AS 9 required De Joya to “[p]erform procedures regarding the continuance of the client relationship and the specific audit engagement.” (AS 9, ¶6.a). QC 20 requires that a firm’s policies and procedures regarding acceptance and continuance “provide the firm with reasonable assurance that the likelihood of association with a client whose management lacks integrity is minimized.” (QC 20:14).

14. Upon learning the negative information about Briner and Dalmy, the De Joya Partners determined that, in their view, Briner was not “appearing or practicing before the SEC” (and, thus, not acting in violation of his SEC suspension).<sup>2</sup> Based on this conclusion, De Joya determined to continue with the Issuer audits and not to withdraw the La Paz audit report (which had been issued prior to De Joya’s learning of the new information regarding Briner and Dalmy, in November 2012). De Joya’s rationale, however, was inappropriate and irrelevant under the circumstances. Regardless of whether Briner was “practicing before the SEC,” his past activities and related SEC suspension called into serious question his integrity and the reliability of Issuer financial information he was providing De Joya. Briner’s working relationship with Dalmy, whose integrity was also doubtful, raised additional issues that needed to be addressed, in accordance with PCAOB Standards. Thus, the De Joya Partners’ evaluation of the negative information they received concerning Briner’s and Dalmy’s integrity – and their conclusion based on that evaluation – failed to comply with AS No. 9, paragraph 6.a and QC Section 20:14, and, De Joya failed to perform its evaluation with due professional care and professional skepticism.

15. The new information that De Joya received regarding Briner and Dalmy also raised fundamental questions, including: whether the Issuers had a legitimate business purpose; whether the information Briner was providing was reliable; whether the Issuers were part of a pump and dump scheme; and whether the Issuers were “blank check” companies. De Joya should have revised its risk assessment to include additional procedures aimed at understanding the Issuers and their environment (AS 12, ¶7), their operating characteristics (*Id.* ¶10), and their objectives (*Id.* ¶14). I have not seen any evidence that De Joya or the De Joya Partners considered these questions, or that they performed the additional procedures required by AS No. 12, paragraphs 7, 10, and 14.

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<sup>2</sup> To the extent relevant, whether Briner was “appearing or practicing before the SEC” is a legal determination, for which De Joya and the De Joya Partners should have consulted counsel. AU Section 317, *Illegal Acts by Clients*, provides guidance on how an auditor should deal with a possible illegal act. It explains, “Whether an act is, in fact, illegal is a determination that is normally beyond the auditor’s professional competence.... [T]he determination as to whether a particular act is illegal would generally be based on the advice of an informed expert qualified to practice law or may have to await final determination by a court of law.” (AU §317.03).

16. Also, the De Joya Partners should have discussed their findings with the management of the Issuers, in this case the Officers. (*Id.* ¶54). De Joya says that its staff inquired regarding the officers' relationship with Briner to ensure that the officers were in fact running the companies. However, whether the officers were running the Issuers was only one relevant question. An additional critical question is why the Officers would continue to associate with Briner given his questionable integrity. Also, given the significance of the fraud risk information that they received, the De Joya Partners themselves should have spoken directly with the officers (which they did not do). Finally, no documentation exists regarding any of the De Joya Partners' discussions regarding these matters, as required under AS No. 3, paragraphs 9A and 10.

17. AS No. 13 spells out additional required responses to the risk information that the De Joya Partners received regarding Briner and Dalmy, which the De Joya Partners did not perform. "The auditor ... should obtain more persuasive audit evidence." (AS 13, ¶9.a). As discussed in detail below, De Joya obtained *no* reliable audit evidence regarding the Issuers' purported cash, mineral rights purchases, or equity sales, let alone "more persuasive evidence." AS No. 13 also emphasizes that the additional audit procedures "necessary to address fraud risks depend upon the type of risks." (*Id.* ¶12). In this case, for the reasons set forth above, the fraud risk was high. I have seen no evidence that De Joya performed any appropriate response to the information it obtained.

18. Under PCAOB Standard AU Section 561, *Subsequent Discovery of Facts Existing at the Date of the Auditor's Report*, even after an audit report is issued, an auditor continues to have responsibility to take action if he or she "becomes aware that facts may have existed at [the date of the audit report] which might have affected the report had he or she then been aware of such facts." (AU §561.01). When the auditor becomes aware of such information, "he should, as soon as practicable, undertake to determine whether the information is reliable and whether the facts existed at the date of his report. In this connection the auditor should discuss the matter with his client." (AU §561.04). "When the subsequently discovered information is found both to be reliable and to have existed at the date of the auditor's report" (AU §561.05), the auditor should take certain actions that result in withdrawing the auditor's report. (AU §561.05-09). These actions would include "[n]otification to regulatory agencies having jurisdiction over the client that the auditor's report should no longer be relied upon," unless the client had already done so. (AU §561.08).

19. De Joya issued the La Paz audit report in the summer of 2012, prior to its November 2012 receipt of the additional negative information concerning Briner. AU Section 561 required De Joya, Whetman (the La Paz audit engagement partner) and Griffith (the La Paz audit quality review partner) to evaluate in November 2012 whether to withdraw the previously-issued La Paz audit report, and to notify the SEC that that report should no longer be relied upon. I see no evidence that either De Joya or Whetman made such an evaluation or notification and, thus, they violated AU Section 561.

20. PCAOB Standards also establish "general requirements for documentation the auditor should prepare and retain in connection with engagements conducted." (AS 3, ¶1). Significantly, "[t]he auditor must document significant findings or issues, actions taken to

address them (including additional evidence obtained), and the basis for the conclusions reached in connection with each engagement.” (AS 3, ¶12). Significant issues include “[s]ignificant changes in the auditor’s risk assessments, including risks that were not identified previously, and the modifications to audit procedures or additional audit procedures performed in response to those changes” (AS 3, ¶12.f, footnote omitted) and “[a]ny matters that could result in modification of the auditor’s report.” (AS 3, ¶12.g). De Joya’s receipt of information concerning Briner’s and Dalmy’s prior illegal and unsavory activities constituted a significant issue. In violation of AS No. 3, De Joya appears neither to have created nor maintained any documentation describing the issue, or any De Joya actions taken or conclusions reached.

21. For the reasons set forth above, De Joya and the De Joya Partners failed to comply with PCAOB Standards QC 20, AS No. 3, AS No. 7, AS No. 9, AS No. 12, AS No. 13, AU Section 230, and AU Section 561.

22. Zhang was the engagement partner for all the Issuers except La Paz. The information that Zhang received in November 2012 concerning Briner, Dalmy, and the Issuers (described above) should have caused him to take the steps required by PCAOB Standards, as outlined above (which Zhang did not do). Had Zhang taken those steps, and exercised due professional care and professional skepticism, he should have reached the conclusion that De Joya should resign from the engagements to audit the Issuers (which it did not do). Accordingly, Zhang failed to comply with the sections of PCAOB Standards QC 20, AS No. 3, AS No. 9, AS No. 12, AS No. 13, and AU Section 230 cited above.

23. Whetman was the engagement partner for La Paz. The information Whetman received in November 2012 concerning Briner, Dalmy, and the Issuers (described above) should have caused him to take the steps required by PCAOB Standards, as outlined above (which he did not do). Had he taken these steps, and exercised due professional care and professional skepticism, he should have reached the conclusion that De Joya should resign from the La Paz engagement and withdraw the La Paz audit report issued July 17, 2012 (which it did not do). Accordingly, Whetman failed to comply with the sections of PCAOB Standards QC 20, AS No. 3, AS No. 9, AS No. 12, AS No. 13, AU Section 230, and AU Section 561 cited above.

24. The responsibilities for the partner performing Engagement Quality Review (“EQR”) are detailed in AS No. 7. Arthur De Joya was EQR for Issuers Clearpoint and Gaspard; Griffith was the EQR for the remaining seven Issuers. Thus, in accordance with AS No. 7, paragraphs 9 & 10, Griffith and Arthur De Joya each affirmed that they “evaluated the engagement team’s assessment of, and audit responses to significant risks identified by the engagement team, including fraud risks, and other significant risks identified by my engagement quality review.” Griffith and Arthur De Joya were required to perform these procedures with due professional care and professional skepticism (AU §230) and “maintain objectivity in performing the review” (AS 7, ¶10). Further, they could provide concurring approval of the audit report “only if, after performing with due professional care the review required by this standard, [they were] not aware of a significant engagement deficiency.” (AS 7, ¶12, footnote omitted). A significant deficiency includes that “the engagement team reached an inappropriate overall conclusion on the subject matter of the engagement.” (*Id.*, Note).

25. Griffith's and Arthur De Joya's knowledge of the issues concerning Briner's and Dalmy's integrity at the time they performed the EQR required them to ensure that the De Joya engagement team perform the procedures discussed above as required responses. For all the reasons discussed above, they should have reached the conclusion that De Joya should resign from the engagements to audit the Issuers (and withdraw the La Paz audit report). In these circumstances, Griffith and Arthur De Joya should not have provided their concurring approvals for the Issuer audit reports and their doing so violated PCAOB AS 7, and AU Section 230.

## **II. De Joya, Zhang and Whetman Failed to Obtain Adequate Audit Evidence**

26. In addition, De Joya, Zhang and Whetman failed to obtain adequate audit evidence regarding (1) the cash reported on the Issuers' balance sheets; (2) the Issuers' purported mineral rights purchases; and (3) the Issuer Officers' purported purchases of Issuer stock. I address each of these three areas separately below.

### **A. Issuer Cash**

27. The Issuers did not have their own bank accounts. Rather, Briner maintained sole control of each Issuer's cash in a comingled "trust" account (for which no trust agreements existed between the Issuers and Briner), and Briner maintained the accounting records for the Issuers' cash. For an auditor, this unusual arrangement constituted a classic inherent conflict of interest – i.e., a failure to segregate the custody of cash from record-keeping for cash. Furthermore, because the Issuers' cash was held in a single comingled account, De Joya could not obtain bank account statements or bank confirmations for each individual Issuer. The combination of these factors presented a high risk of fraud and unusual barriers to auditing the Issuers' cash. Indeed, under these circumstances, it was not possible for an auditor to obtain sufficient appropriate evidence for the Issuers' cash accounts. Auditors refer to this situation as a "scope limitation," whereby an unqualified opinion is precluded. (AU §508.22-26). These factors were further aggravated by the known fraud risks concerning Briner, detailed in the previous section.

28. Zhang and Whetman understood that Briner held the Issuers' cash in a single comingled account that Briner controlled. Yet, they failed to plan or perform the cash audit in a manner sufficient to respond to the high risks inherent in that arrangement, as required by PCAOB Audit Standards. (AS 8, ¶¶2-3; AS 12, ¶¶3-4). Zhang and Whetman also failed to obtain sufficient appropriate evidence to support a conclusion that the cash amounts reported on the Issuers' balance sheets existed in the amounts stated, or even that it existed at all. Indeed, no appropriate audit procedure was performed to test the cash balance. Accordingly, Zhang and Whetman failed to comply with AS No. 15, *Audit Evidence*.

29. AS 15 requires the auditor to "plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for his or her opinion." (AS 15, ¶4). The PCAOB Audit Standard explains. "Appropriateness is the measure of the quality of audit evidence, i.e., its relevance and *reliability*. To be appropriate, audit evidence must be both relevant and *reliable* in providing support for the conclusions on which the auditor's opinion is based." (AS 15, ¶6, emphasis added). "The *reliability* of evidence depends on the nature and

source of the evidence and the circumstances under which it is obtained.” (AS 15, ¶8, emphasis added). “Evidence obtained from a knowledgeable source that is *independent* of the company is more reliable than evidence obtained only from internal company resources.” (AS 15, ¶8, emphasis added).

30. The most basic audit procedure generally performed to test cash balances is to obtain *independent* confirmation of the balance from a *financial institution*. Indeed, the audit programs De Joya used required that *bank* accounts be confirmed. PCAOB Audit Standards, AU Section 330, *The Confirmation Process*, provides additional guidance on obtaining reliable evidence of bank balances through the confirmation process. Zhang and Whetman failed to comply with AU Section 330.

31. In addition to emphasizing that “[p]rofessional skepticism is important in designing the confirmation request, performing the confirmation procedures, and evaluating the results of the confirmation procedures” (AU §330:15), the Standard states, “If information about the respondent’s ... objectivity and freedom from bias with respect to the audited entity comes to the auditor’s attention, the auditor should consider the effects of such information on designing the confirmation request and evaluating the results.” (AU §330:27). Further, in circumstances “where the respondent is the custodian of a material amount of the audited entity’s assets,” “the auditor should exercise a heightened degree of professional skepticism relative to these factors about the respondent. In these circumstances, the auditor should consider whether there is sufficient basis for concluding that the confirmation request is being sent to a respondent from whom the auditor can expect the response will provide meaningful and appropriate evidence.” (AU §330:27). The Issuers’ cash was not only material but represented over 50 percent of their assets. Yet, I have seen no evidence that Zhang and Whetman considered the factors required by AU Section 330:27.

32. For each Issuer, a confirmation request indicating the amount of each Issuer’s cash was sent to Briner, which was then signed by Briner. Notably, the confirmation requests were sent using the standard form distributed by the American Institute of CPAs, “Standard Form to Confirm Account Balance Information with *Financial Institutions*” (emphasis added). These confirmations failed to provide reliable evidence that the cash balances existed in the amounts stated, or that the Issuers actually had a right to (held) the cash, for the following reasons.

33. The confirmation request was not sent to an independent third party. Briner was not an independent third party but, rather, had sole access to the Issuers’ cash, with sole check signing authority and sole record keeping functions. In essence, Briner performed the functions of an internal accounting department for the Issuers.

34. Relying on confirmations signed by Briner failed to meet the requirement to “obtain sufficient appropriate audit evidence” to support a conclusion that the cash amounts on the Issuers’ balance sheets existed in the amounts stated on the balance sheets and the Issuers had rights to (*i.e.*, held) the cash, as required by AS No. 15, paragraph 4. The confirmations were not reliable audit evidence from a source that is independent of the company. (AS 15, ¶8). Accordingly, Zhang and Whetman violated AS No. 15.

35. Further, Zhang and Whetman failed to comply with AU Section 330 by failing to exercise professional skepticism in designing the confirmation request and evaluating the results of the confirmation procedures. (AU §330.15). Zhang and Whetman failed to consider the effects of Briner's lack of objectivity and freedom from bias, as required by AU Section 330.27. Zhang and Whetman failed to exercise professional skepticism in performing the audit procedures related to cash (AU §230), let alone the heightened professional skepticism required under these circumstances. (AU §330.27).

**B. Purported Issuers Mineral Rights Purchases**

36. The notes to the Issuers' financial statements stated that the Issuers acquired mineral claims, and the Issuers' balance sheets reported those mineral claims as Issuer assets. However, Zhang and Whetman failed to obtain sufficient appropriate audit evidence to support a conclusion that the Issuers actually purchased mineral rights; that such mineral rights even existed; that they existed in the amounts stated; or that the Issuers actually owned the mineral rights. To the contrary, Zhang and Whetman performed no appropriate audit procedure to test the mineral rights.

37. As a most basic matter, Zhang and Whetman could not confirm the Issuers' payment for mineral rights through Briner's internal cash records of the commingled trust account because, as I note in the previous section, those records do not constitute reliable audit evidence that the transactions listed therein actually occurred.

38. Furthermore, the additional information that Zhang and Whetman obtained was either insufficient to confirm the purported mineral rights purchases or contradictory (and, thus, indicative of additional fraud risks). For example, Zhang and Whetman received documents titled "Asset Purchase Agreement" for purported Issuer mineral rights purchases from an entity called "Jervis Explorations Inc." ("Jervis"). Those documents, however, do not confirm that the Issuers actually paid for mineral rights or received them. Zhang received a letter from Briner stating that his law firm paid Jervis \$8,500 for six Issuers (totaling \$51,000). However, Zhang never received supporting documentation for those claimed transactions, and he received information inconsistent with them – including copies of two checks to Jervis totaling \$84,043 (neither of which indicated that it was issued on behalf of any of the Issuers).

39. Whetman also received insufficient or contradictory information regarding the purported La Paz mineral rights purchase from Jervis. For example, Briner's internal cash records listed a December 12, 2011, \$20,000 wire transfer to Jervis, but Whetman received other documents indicating that the purported cash transfer occurred on a different date (and insufficient evidence that cash ever was transferred from La Paz to Jervis).

40. Accordingly, Whetman and Zhang failed to comply with the following PCAOB Audit Standards: (i) AU Section 230.07-09, requiring auditors to exercise professional skepticism; (ii) AS No. 15, paragraphs 4, 6, and 8 (as cited above); (iii) AS No. 13, paragraph 46, requiring auditors to revise risk assessments and modify audit procedures in response to contradictory evidence; and (iv) AS No. 14, which requires an auditor to "take into account all

relevant audit evidence, regardless of whether it appears to corroborate or to contradict the assertions in the financial statements (§3); and which requires an auditor to take into account the fraud risk of “[d]iscrepancies in the account records” and “[c]onflicting or missing evidence.” (Appendix C, ¶C1).

41. In addition, prior to approving his Issuer audit reports, Zhang learned that Briner was a Jervis director. AU Section 334, *Related Parties*, thus required Zhang to examine such potential related-party transactions, including “obtaining and evaluating sufficient appropriate evidential matter ... *beyond inquiry of management*.” (AU §334.09, emphasis added). Instead, Zhang accepted at face value Briner’s representation that he was not an owner of Jervis and did not make any decisions regarding it. Zhang thus failed to exercise professional skepticism (AU §230.07-.09); failed to appropriately evaluate “whether the risk [of material misstatement] involves significant transactions with related parties” (AS 12, ¶71.e); and failed to comply with AU §334.09.

### **C. Purported Officer Stock Purchases from Issuers**

42. Each of the Issuers’ financial statements reported a sale of its common shares to its sole officer for \$30,000 cash. However, Zhang and Whetman failed to obtain sufficient appropriate evidence to support a conclusion that those purported stock sales occurred; that the resultant equity reported on the issuers’ balance sheets existed; or that such equity existed in the amounts stated.

43. Again, as a most basic matter, Zhang and Whetman could not confirm the Issuers’ cash receipt for the stock because no reliable audit evidence existed to support the existence of Issuer cash or cash transactions.

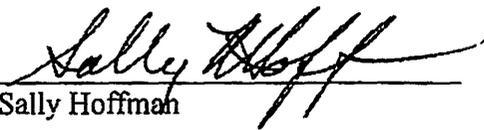
44. Also, as with the mineral rights audits discussed above, Zhang and Whetman received, but failed to resolve, contradictory information regarding the purported stock sales to the Issuers’ officers. For example, Zhang received Briner internal cash records for six Issuers listing incoming \$30,000 transfers from an entity called “Dhaliwal” (not from the respective officers). In response to follow-up requests, Zhang received either additional inconsistent information or no response at all.

45. Whetman also received contradictory information. For example, Whetman received a document titled “Subscription Agreement,” which described the La Paz officer’s purchase of 15,000,000 shares of La Paz stock from La Paz for \$30,000. However, Briner’s internal cash statement showed an incoming transfer of \$30,000 on November 23, 2011 from “Hyperion mgmt.,” not from La Paz’s officer. As with Zhang, Whetman’s requests for additional information likewise were met with additional contradictory information.

45. Accordingly, Zhang and Whetman failed to comply with the PCAOB Audit Standards cited in Paragraph 40 above.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is, to the best of my knowledge and belief, true and correct.

Dated: April 9, 2015

  
Sally Hoffman

New York, N.Y.

